2067

SUPREME COURT OF THE UNITED STATES.

No. 120.

ROBERT FORSYTH, APPELLANT,

vs.

JOHN REYNOLDS, JOSIAH E. McCLURE, AND JOHN McDOUGALL.

APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF ILLINOIS.

INDEX.

	Original.	Print.
Bill of complaint	1	1
Amendment to bill	17	10
Surety for costs	19	11
Subpœnas and return	19	11
Exhibits refered to in bill	21	12
Plat and certificate (A 1)	21	12
Copy from General Land Office of pre-emption claim of Bogardus	23	13
Patent to Bogardus, (B 2)	31	18
Deed, Bogardus to Underhill (C 3)	24	19
" Underhill to Mason (D 4)	34	20
" Underhill to Knowlton (E 5)	36	21
" Knowlton to Hotchkiss (F 6)	37	22
" Mason to Hotchkiss (G 7)	39	23
" Mason to Lambert (H 8)	42	25
" Lambert to Reynolds (I 9)	44	26
" Hotchkiss to Reynolds (J 10)	46	27
" Reynolds to McClure (K 11)	49	28
" Underhill to Wren (L 12)	51	30
Will of Acquilla Wren (M 13)	52	31
Deed, Wren to McDougall (N 14)	54	32
Map (O 15)	57	33
Patent to Forsyth's heirs (P 16)	59	34
Affidavit of Forsyth (Q 17)	61	35
Forsyth's application for claim (R 18)	62	36

GIDEON, print.

	Original.	Print.
Forsyth's Detroit claim (S 19)	64	37
Patent to Forsyth (T 20)	68	40
" " (U 21)	70	41
Subpœna and service	71	42
Motion for an injunction	72	43
Injunction granted	73	43
Amended bill	73	43
Answer of defendant	75	44
Will of Thomas Forsyth	84	49
Exhibit E, referred to in answer	88	52
" P, " "	90	53
" O, " "	91	54
Transcript from General Land Office, containing plat	95	57
Plat	103	60
Do	104	62
Replication to answer	105	64
Affidavit of Norman H. Purple	106	64
Deposition of James Abbott	108	65
" " Lewis Cass	113	68
" " Benjamin B. Kerchival	117	71
" " Norman H. Purple	121	74
Exhibits referred to in Purple's deposition	123	75
Agreement of counsel	136	83
Deposition of Antoine Le Claive	138	85
Interrogatories to Henry Morin	143	88
Deposition of Henry Morin	144	88
" " Joseph Aubuchon	149	91
" " Mary Bouche	153	93
" " Lisette Mette	158	95
" " Antoine Smith	161	98
" " John H. Kinzie	163	99
Exceptions to depositions	166	101
Amended answer	170	103
Deposition of Stephen French	175	106
" " Ralph Hamlin	176	107
" " Piere Menard	178	108
Transcript from General Land Office	186	113
Decree	203	123
Appeal granted	204	124
Appeal bond	205	124
Certificate of clerk	206	124

2075.

JOHN REYNOLDS,
JOSIAH E. MCCLURE, and
JOHN MCDOUGALL,
vs.
ROBERT FORSYTH.

Decree in the circuit court of the United States of America, for the district of Illinois, held at the city of Springfield, in the district aforesaid, before the Hon. Thomas Drummond, judge of the district court of the United States of America for the district of Illinois, and in the absence, &c., of the Hon. John McLean, one of the justices of the Supreme Court of the United States, assigned to the 7th judicial circuit of the United States, sole judge of said circuit court, in chancery sitting, on Monday, the twenty-sixth day of January, of the term of December, in the year of our Lord one thousand eight hundred and fifty-one, and of our independence the 76th year.

DISTRICT OF ILLINOIS, *sct.*

Be it remembered, that on the fourth day of June, in the year of our Lord one thousand eight hundred and fifty, the said John Reynolds, Josiah E. McClure, and John McDougall, complainants, by N. H. Purple, their solicitor, came into the clerk's office of the said circuit court, and filed their bill in chancery for an injunction against Robert Forsyth, defendant, viz:

In the circuit court of the United States of America, for the district of Illinois, June term A. D. 1850.

To the judges of the circuit court of the United States, for the district of Illinois.

John Reynolds, Josiah E. McClure, and John McDougall, who are severally residents of the city of Peoria, in the county of Peoria, and State of Illinois, and citizens of the said State of Illinois, bring this bill against Robert Forsyth, of the county of St. Louis, in the State of Missouri, and a citizen of the State of Missouri.

And thereupon your orators complain and say, that your orators, John Reynolds and Josiah E. McClure, are the owners in fee simple of the following described real estate, that is to say, of thirty-eight (38) feet, part of lot number two, (2,) adjoining lot number three, (3,) and of forty (40) feet, part of lot number three, (3,) adjoining lot number two, (2,) in block number fifty, (50,) in Bigelow's and Underhill's addition to the town, now city of Peoria, situated on the southeast fractional quarter of section number nine, in township number eight, north of the base line, in range number eight, east of the fourth principal meridian, in Illinois. Said part of said two lots extending seventy-eight feet along Water street, and at right angles with said Water street, to the Illinois river, the width of the said seventy-eight feet

aforesaid, as by reference to the annexed plat of Bigelow's and Underhill's addition to the town of Peoria, hereto attached, (marked A 1,) will fully appear. Said plat, duly certified by the recorder of Peoria county aforesaid, is made part of this bill.

And your orators further state, that the said Reynolds and McClure, two of your orators, and those under whom they claim, as hereinafter stated and set forth, have been in the actual possession and occupancy of the said premises for more than five years last past, and that they, the said Reynolds and McClure, still are in the actual possession and occupancy of the same, and have made improvements thereon amounting in value to the sum of more than thirty hundred dollars.

The said Reynolds and McClure claim titles and right to said premises by virtue of such possession and occupancy, and also under and through the following chain of title, derived from the Government of the United States, that is to say:

1st. A patent to John L. Borgadus, dated January 5th, A. D. 1838, a copy of which (marked B 2) is herewith filed and made part of this bill, the original of which your orators will produce upon the final hearing of this cause.

2d. A deed from John L. Borgadus to Isaac Underhill, dated the 5th day of August, A. D. 1834, a certified copy of which, (marked C 3,) and also hereto attached and made part of this bill, the original of which the complainants will also produce upon the final hearing of this cause.

3d. A deed from Isaac Underhill and Jane S. Underhill, his wife, to William E. Mason, dated the 1st day of October, A. D. 1842, a certified copy of which (marked D 4) is also hereto attached and made part of this bill, the original of which the said complainants aver, after diligent and proper inquiry, cannot be found, and that it is out of their power to produce the same to the court.

4th. A deed from Isaac Underhill and Jane S. Underhill, his wife, to Jesse L. Knowlton, dated the sixteenth day of November, A. D. 1842, a certified copy of which (marked E 5) is also hereto attached and made part of this bill, the original of which the said complainants aver, after diligent and proper inquiry, cannot be found, and that it is not in the power of complainants to produce the same to the court.

5th. A deed from Jesse L. Knowlton and Olive Knowlton, his wife, to Joshua P. Hotchkiss, dated November 20, A. D. 1843, a certified copy whereof is also hereto attached and made part of this bill, the original of which the said complainants aver, after diligent and proper inquiry, cannot be found, and that it is not in the power of these complainants to produce the same to the court. Said certified copy is marked (F 6.)

6th. A deed from William E. Mason and Ann Mason, his wife, to Joshua P. Hotchkiss, dated November 18th, 1843, a certified copy whereof (marked G 7) is also attached and made part of this bill, the original of which the said complainants aver, after diligent and proper inquiry, cannot be found, and that it is not in the power of these com-

plainants to produce the same to the court. The originals of the said four last mentioned deeds said complainants will produce on the hearing of this cause, if the same can be found.

7th. A deed from William E. Mason and Ann Mason, his wife, to William Lambert, dated November 15th, 1843, a copy of which (marked H 8) is also hereto attached and made part of this bill, the original of which these complainants will produce upon the trial or hearing of this cause.

8th. A deed from William Lambert and Rebecca Lambert, his wife, to John Reynolds, dated May 11th, 1847, a copy of which (marked I 9) is also hereto attached and made part of this bill, the original of which these complainants will produce upon the hearing of this cause.

9th. A deed from Joshua P. Hotchkiss and Harriet N. B. Hotchkiss, his wife, to the complainant, John Reynolds, dated May 20th, 1847, a copy of which is also hereto attached and made part of this bill, the original of which these complainants will produce upon the hearing of this cause. Said copy is marked (J 10.)

10th. A deed from John Reynolds, complainant aforesaid, and Sarah, his wife, to the complainant, Josiah E. McClure, dated May 15th, 1849, a copy of which, marked (K 11,) is also hereto attached and made a part of this bill. The original of which complainants will produce and prove upon the final hearing of this cause.

And your orators further charge, that for the reasons aforesaid your orators, the said Reynolds and McClure, are the owners in fee simple as tenants in common of the said parcels of land herein before described.

And your orators further charge, that your orator, John McDougall, is the owner in fee simple of lot number one, in block number fifty, (50,) in said Bigelow's and Underhill's addition to the town (now city) of Peoria; that he claims the same by virtue of his possession and occupancy, and the possession and occupancy of those under whom he derives title, which he avers had been continued for a long period of time, (to wit,) as he is informed and believes, for the period of eight years and upwards. And complainants further state that the said McDougall is now in the actual possession of the said premises, and that he has made large and valuable improvements thereon, (to wit,) to the amount in value of thirty hundred dollars.

He also claims title to the same under and through—

1st. The patent herein before referred *too*, to John L. Bogardus.

2d. The deeds herein before referred to, from John L. Bogardus to Isaac Underhill.

3d. A deed from Isaac Underhill and Jane S. Underhill, his wife, to one Aquilla Wren, dated the 7th day of December, A. D. 1841, which is hereto attached, marked (L 12,) duly certified as a copy by the recorder of Peoria county, and herewith made part of this bill. The original of which, after diligent and proper inquiry, these complainants aver cannot be found; and that it is out of their power at

present, but which they will, if the same can be found hereafter, produce upon the final hearing of this cause.

And your orators further state, that the above named Aquilla Wren, who is the grantee in the above deed, died testate on or about the 16th day of August, A. D. 1844; and that on or about the 29th day of July. A. D. 1844, he made his last will and testament, a certified copy whereof, together with the proof of its execution by the said testator, is herewith filed and made part of this bill, and marked (M 13;) by which said will, after the payment of his debts, and a bequest of two hundred dollars each to the daughers of his sister, one Sarah Robo, he gave and bequeathed all his real personal estate remaining to his brother, one Thomas Wren, as by reference to said will will more fully appear.

And your orators further charge, that the said Thomas Wren, by his deed, dated the 28th day of September, A. D. 1848, a copy whereof is hereto attached, and made part of this bill, marked (No. 14,) conveyed the said lot of land to your orator, John McDougall; the original of which said deed complainants will produce upon final hearing of this cause. By means whereof your orator, the said John McDougall, became, was, and still is, seized in fee simple of the lot of land last before described, which will be more fully identified by reference to the plat herein before referred to, and made part of this bill.

And your orators further state, that to the best of their knowledge, information, and belief, no person or persons, except the defendant hereinafter named, have, or claim to have, any title to, or interest in, the said tracts of land, or town lots, herein before described and claimed by your orators.

And your orators further charge, that on or about the day of , A. D. 1848, one Robert Forsyth, a citizen of the State of Missouri, commenced an action of ejectment in the circuit court of the United States of America, for the district of Illinois, against James Kelsey and Joshua P. Hotchkiss, then citizens of the State of Illinois, and residents upon and occupants of the said real estate herein before described, for the recovery of French claim, number seven, (7,) in the village of Peoria, Illinois; which said claim, as will fully appear by the plat hereto attached, marked (O 15,) and made part of this bill, will include a great and valuable portion of the said premises heretofore described as belonging to, and in the possession of, your orators; and is now prosecuting his said action of ejectment, and, as your orators fear, unless restrained by injunction will recover the possession of said premises.

Your orators further state, that the defendants, in the said action of ejectment, were, at the time of the commencement of said action of ejectment, in possession of said premises, either in their own right as purchasers, or as tenants of some other persons claiming title under the said patent to John L. Bogardus; and that at no time did said defendants hold or occupy said premises by any claim, or pretence of claim, adverse to the title of these complainants before set forth. And that said Hotchkiss was, at the time of the commencement of said suit, in

possession under the title to him herein before set forth; and said Kelsey was the tenant of said Hotchkiss.

And your orators further state, that they are informed, and verily believe, that the said Robert Forsyth claims title to the said claim, number seven, under and by virtue of an act of Congress, approved May 15th, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois;" and an act of Congress, approved March 3d, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois." A patent purporting to have been issued in pursuance of said acts of Congress, dated about the 16th day of December, A. D. 1845, to the legal representatives one of Thomas Forsyth, and to their heirs; a copy of which said patent is herewith filed and made part of this bill. A certified copy of the original record of the same your orators will exhibit upon the hearing of this cause; said exhibit is marked (P 16.) And further, as heirs-at-law of the said Thomas Forsyth, or as a purchaser from the other heirs of the said Thomas Forsyth, of their several interests and rights in the estate of the said Thomas Forsyth, he, the said Robert, being one of the said heirs of the said Thomas.

Your orators further expressly charge, that the said Robert Forsyth is the son and one of the heirs, and as such one of the legal representatives of the said Thomas Forsyth; and that he acquired all the title which he has, or claims to have, to the premises aforesaid, through his said father, as a legal representative of said Thomas, and through or by purchase from the other heirs, children and legal representatives of the said Thomas Forsyth. The precise manner in which said pretended title is derived is unknown to your orators; and they call upon the said Robert Forsyth, in his answer, to set forth and particularly state the same.

And your orators further charge, that the confirmatory act of Congress above referred [to,] of 3d March, 1823, in express terms exclude the right or claim of any settler in the village of Peoria who had, prior to the first day of January, 1813, settled on a lot in said village of Peoria, and who had, before the date of the said act, received a confirmation of claims or donation of any tract of land or village lot from the United States; and that the grant made by the said act was only to such settlers, provided he had not received any such prior grant, confirmation, or donation.

And your orators further charge, that by some regulation of the General Land Office of the United States, before patents were issued upon the claims under the said acts of Congress before referred to, it was required that an affidavit should be filed with the receiver of the land office at Edwardsville, in the State of Illinois, showing that the person or persons preferring such claims were not within or subject to the proviso aforesaid in said recited act of 3d March, 1823.

And your orators further state and charge, that in pursuance of the said regulation, and with a full personal as well as constructive knowledge of all the facts herein after stated, as your orators verily

believe, the said Robert Forsyth, on the 15th day of August, A. D. 1845, appeared before the receiver of the said land office at Edwardsville, and swore to and subscribed the affidavit, a copy of which is hereto attached and made part of this bill, marked (Q 17,) a certified copy whereof will be produced upon the hearing of this cause, therein declaiming "that the said Thomas Forsyth had not, prior to the act of Congress approved 3d March, 1823, entitled "an act to confirm certain claims to lots in the village of Peoria in the State of Illinois," received a conformation of claims, or donation of any tract of land or village lot from the United States, and that the said Thomas Forsyth was an inhabitant or settler on lot seven in the said village of Peoria, within the provision and meaning of the said act of Congress.

And your orators further charge, that the claim of the said Thomas Forsyth, made before the register of the land office at Edwardsville, on the 7th day of September, A. D. 1820, and the evidence in support of the said claim, as your orators verily believe, shows conclusively that the same was made by the said Thomas Forsyth in his own right as a settler and occupant, and not as the legal representative of any other person or persons. And they submit, respectfully, that the said Thomas Forsyth could not derive title to said land except by virtue of his own occupancy, or through some legal conveyance by deed, duly executed, from the actual settler or occupant of the said land; and they expressly charge, that to the best of their knowledge, information, and belief, no such conveyances by any person to said Thomas Forsyth were ever made; and that, as they are advised by counsel, and believe, said Thomas Forsyth could only claim said premises by virtue of his own settlement and occupancy. A copy of the application of the said Thomas Forsyth, together with the proof of his said claim, marked (R 18,) is herewith filed and made part of this bill. A certified copy whereof, from the register of the land office at Edwardsville, your orators will produce upon the hearing of this cause.

And your orators further charge, that the said Thomas Forsyth had, prior to the passage of the act of the 3d March, 1823, before referred to, received from the United States grants, donations, and confirmations of two claims situated near Gross's Point, in the Detroit district and Territory of Michigan, under and by virtue of an act of Congress, entitled "an act regulating the grants of land in the Territory of Michigan," approved March 3d, 1807, one of which said tracts, (numbered 618,) containing $527\frac{1}{100}$ acres, was confirmed to the said Thomas Forsyth by the commissioners appointed to settle and adjust such claims for said Detroit district, on the 10th day of December, A. D. 1808; and the other, containing $324\frac{350}{100}$ acres, was in like manner confirmed to the said Thomas Forsyth, (said claim being numbered 619,) by the said commissioners, on the 29th day of June, A. D. 1810. Copies of the proceedings and transcripts thereof, of the board of commissioners, together with the claims and proof of the said Thomas Forsyth, and of the confirmations of the said commissioners to said claims, (marked S 19,) are hereto attached and made

part of this bill. Certified copies of which said documents, from the Commissioner of the General Land Office, your orators will exhibit upon the hearing of this cause.

And your orators further charge, that pursuant to the said grants, and donations, and confirmations, patents were duly issued by the United States to the said Thomas Forsyth for the said claims confirmed to him as aforesaid, to wit, for claim (No. 618) $527\frac{1}{100}$ acres, on or about the 7th day of October, A. D. 1811; a copy of which said patent, (marked T 20,) is hereto attached and made part of this bill. And for claim number 619, $324\frac{35}{100}$ acres, on or about the 10th day of July, A. D. 1811; a copy of which said patent, (marked U 21,) is also hereto attached and made part of this bill. Certified copies of which said patents your orators will produce upon the hearing of this cause.

Your orators therefore expressly charge, that, as they are advised by counsel and believe, the said Thomas Forsyth was not entitled by law or in equity, under and in virtue of the said confirmatory act of Congress of March 3d, 1823, or in any other manner, to the said claim number seven (7) in Peoria village aforesaid, and that in truth and in fact, nothing was, or was intended to be, granted to him by said act; and that the procuring of the patent for said claim number seven, by the said Robert Forsyth to the legal representatives of the said Thomas Forsyth, and their heirs, was a fraud upon the Government of the United States, upon the rights and interests of your orators claiming under the patent aforesaid from the United States to the said John L. Bogardus; that the same was through accident and mistake, and through the connivance and procurement of the said Robert Forsyth, issued without authority of law, and, as your orators are advised and believe, ought in justice and equity to be set aside, so far at least as the interests of your orators are concerned.

And your orators further aver, that your orators, John Reynolds, Josiah E. McClure, and John McDougall, are severally citizens of the State of Illinois, and that the said Robert Forsyth above named is a citizen of the State of Missouri.

And your orators further aver, that the aforesaid property claimed by your orators, and in controversy in this suit, exceeds in value the sum of five hundred dollars, exclusive of all costs. To the end, therefore, that the said defendant may, if he can, show why your orators should not have the relief hereby prayed, and may, upon his corporal oath, and according to the best and utmost of his knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of their several interrogatories hereinafter numbered and set forth, as by the note here under written he is required to answer, that is to say:

1st. Whether the said complainants have not been, and are not now, in actual possession and occupancy of the premises claimed by them in said bill, and whether they have not made the improvements thereon in manner and form as stated in said bill?

2d. Whether he has not commenced the said action of ejectment in the circuit court of the United States for the district of Illinois against James Kelsey and Joshua P. Hotchkiss, and is not now prosecuting the same in manner and form as stated in said complainants' bill?

3d. Whether the claim, upon which he has brought said action of ejectment, does not include a large and valuable portion of the lands or lots to which the complainants in their said bill claim title, in manner and form as stated in said bill, and as shown by the plat therein referred to, marked O 15?

4th. Whether the said Kelsey and Hotchkiss, defendants in said action of ejectment, did not occupy said premises, claiming title under the patent to said John L. Bogardus, as stated in said complainants' bill, and not adversely to these complainants, as therein stated?

5th. Whether you, the said Robert Forsyth, do not claim title to said land under the acts of Congress mentioned in complainants' bill, and under the patent therein referred to, and exhibited in manner and form as stated in said bill?

6th. Whether, to the best of your knowledge, information, and belief, the said Thomas Forsyth, mentioned in said patent, and to whose legal representatives the same was issued, was not your father, and whether you do not claim the said land as heir or devisee of your said father, and by purchase from, or partition with, the other heirs of the said Thomas Forsyth? Please set forth the whole of your title and claim to said premises, with your answer to this interrogarory.

7th. Did the Commissioner of the General Land Office require you to file an affidavit with the receiver of the land office at Edwardsville before he would issue a patent upon claim No. seven, (7,) as stated in complainants' bill?

8th. Did you make and file the affidavit attached to, and made part of, complainants' bill, marked Q 17?

9th. Did not said Thomas Forsyth make his application for, and proof of, claim No. seven, (7,) in Peoria, in manner and form as stated in complainants' bill and exhibit, marked R 18?

10th. To the best of your knowledge, information, and belief, was not the said Thomas Forsyth, who received the confirmations, donations, and patents, for claim No. 618 and 619, in the Detroit district, in manner stated in complainants' bill, and shown by exhibit marked (S 19,) the same Thomas Forsyth to whose legal representatives the said claim No. seven in Peoria, was patented, as stated and set forth in complainants' bill?

11th. Did you not know, or had you not good reason to believe, at the time you filed the affidavit, before referred to, with the receiver of the land office at Edwardsville, that the said Thomas Forsyth had received the said confirmations, grants, or donations, in the Detroit district aforesaid, or one of them; or had you not heard that such was the fact? State to the best of your knowledge, information, remembrance, or belief.

12th. Whether the said complainants have a title to the property,

lots, and parts of lots, by them in this bill claimed, in manner and form as stated in this bill? State to the best of your knowledge, information, and belief.

Inasmuch, therefore, as your orators are without any adequate remedy at law, and can only have relief in a court of equity, where such matters are properly relievable and cognizable, they pray that the said Robert Forsyth may be made defendant to this bill, that he may be compelled to answer the same, and all and singular the charges and allegations therein contained, specially and particularly, according to the law and the rules of this court. And they further pray, that at least so far as the rights and interests of your orators are concerned in the premises, in manner and form, as their said rights and interests are herein before stated and set forth, that the said patent issued by the United States to the legal representatives of the said Thomas Forsyth, and their heirs, may be vacated, set aside, and declared void; or that the said Robert Forsyth may be perpetually enjoined and restrained from setting up the same as against your orators and their several rights, claims, and interests, respectively, before set forth. And that the said defendant may also be enjoined and restrained from further prosecuting his said action of ejectment in the said circuit court of the United States for the district of Illinois, against the said Kelsey and Hotchkiss, until the final hearing of this cause, either by himself, his servants, agents, counsel, or attorneys. And finally, that he, the said defendant, may be perpetually enjoined and restrained from prosecuting any action of ejectment, or other suit at law, against your orators, or either of them, or against any other person or persons claiming said premises through or under your orators, or either of them, for the recovery of the possession of said premises so claimed by your orators as aforesaid, under his said claim of title to said French claim No. seven, (7,) so as aforesaid fraudulently, and against law and equity, so by him obtained as aforesaid; and that they, your orators, may have such other and further relief as to justice and equity appertain.

And your orators further pray, that the usual process or writ of subpœna may be issued out of this honorable court, directed to the said defendant, commanding and requiring him to appear and answer this bill, and the charges, allegations, and interrogatories therein contained, and that said defendant may be compelled to answer the same at the usual time prescribed by law and the rules of this court. And, as in duty bound, they will pray, &c.

JOHN REYNOLDS,
J. E. McCLURE,
JNO. McDOUGAL.

N. H. PURPLE,
E. N. POWELL,
Complainants' solicitors.

The defendant, Robert Forsyth, is required to answer the interrogatories numbered respectively, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.

N. H. PURPLE,
E. N. POWELL,
Complainants' solicitors.

UNITED STATES OF AMERICA,
State and district of Illinois, county of Peoria, ss.

John Reynolds, Josiah E. McClure, and John McDougal, being duly sworn according to law, did severally depose and say, that the foregoing bill of complaint, and the facts therein set forth, and the statements therein made, so far as they purport to have been made upon their own knowledge, are true; and that the residue of the said bill, facts, and statements therein made, so far as the same purport to have been made upon information derived from documents and persons, are true, to the best of their knowledge and belief, and further say not.

Sworn to, and the names of the said complainants subscribed to said bill, before me and in my presence, this 28th day of January, A. D. 1850.

Witness my hand and the seal of the circuit court of Peoria county, Illinois, the day and year last aforesaid.

[L. S.]

JACOB GALE, *Clerk.*

And the said complainants, by way of amendment to the foregoing bill, by them subscribed and sworn to, do further state and show to the court aforesaid, that the said Joshua P. Hotchkiss, defendant in the said ejectment suit herein before mentioned, was, at the time of the commencement of the said ejectment suit, in possession of said premises, under the title in him in this bill stated and set forth, and that to the best of their knowledge, information, and belief, the said James Kelsey, defendant in the said action of ejectment, was, at the time of the commencement of said suit, in possession of said premises as the tenant of and under the said Hotchkiss.

JOHN REYNOLDS,
J. E. McCLURE,
JNO. McDOUGAL.

STATE OF ILLINOIS,
Peoria county, ss.

I, Jacob Gale, clerk of the circuit court, in and for Peoria county aforesaid, do certify, that on this 29th day of May, A. D. 1850, personally appeared before me John Reynolds, Josiah E. McClure, and John McDougal, whose names are subscribed to the foregoing amendment to the foregoing bill in chancery, and being duly sworn according to law, did severally depose and say, that the statements contained in the said amendment to said bill, by them subscribed above, are true in substance and in fact, to the best of their knowledge, information, and belief.

2079.

Witness my hand and the seal of said court, at Peoria, this 29th day of May, A. D. 1850.

[L. S.]

JACOB GALE, *Clerk*.

In the circuit court of the United States of America, for the district of Illinois, June term, A. D. 1850.

JOHN REYNOLDS, Josiah E. McClure, John McDougal,
vs.
ROBERT FORSYTH.

We do hereby enter ourselves security for costs in this cause, and acknowledge ourselves bound to pay, or cause to be paid, all costs which shall accrue in this action, either to the opposite party or to any of the officers of this court, in pursuance of the laws of the State of Illinois or of the United States, or otherwise.

PEORIA, *March* 20, 1850.

J. McCLAY SMITH,
JONATHAN K. COOPER.

PEORIA, *March* 20, 1850.

H. O. MERRIMAN, esqr.,
Attorney for Robert Forsyth:

You are hereby notified, that on the 13th day of May next, the undersigned, John Reynolds, Josiah E. McClure, and John McDougal, will apply to the Hon. Thomas Drummond, judge of the district court of the United States, for the district of Illinois, and associate justice of the circuit court, for the same district and State, at his chambers in Galena, Jo Daviess county, Illinois, for an injunction to restrain and enjoin the said Robert Forsyth from further prosecuting a certain action of ejectment now pending in the circuit court of the United States, for the district of Illinois, wherein the said Robert Forsyth is plaintiff, and James Kelsey and Joshua P. Hotchkiss are defendants, upon a bill for that purpose to be presented to said judge.

N. H. PURPLE,
Solicitor for complainants,
JOHN REYNOLDS,
JOSIAH E. McCLURE,
JOHN McDOUGAL.

I served the above notice on H. O. Merriman, esq., attorney for Robert Forsyth, on the 21st day of May, A. D. 1850, by giving him a true copy of the same.

March 21, 1850.

N. H. PURPLE.

H. O. MERRIMAN, esq.,
Attorney for Robert Forsyth:

You are notified, that on the first day of the next term of the circuit court of the United States, for the district of Illinois, or so soon

thereafter as counsel can be heard, we shall apply to the said circuit court for an injunction to restrain and enjoin the said Robert Forsyth, his attorneys and agents, from further prosecuting a certain action of ejectment now pending in said court, wherein the said Robert Forsyth is plaintiff, and James Kelsey and Joshua P. Hotchkiss are defendants, upon a bill for that purpose to be presented to said court.

JOHN REYNOLDS.
PEORIA, *May* 25, 1850. JOSIAH E. McCLURE,
JOHN McDOUGAL,
By their solicitor, N. A. PURPLE.

Received a copy of above, May 25, 1850.
H. O. MERRIMAN.

We, Lewis Bigelow and Isaac Underhill, do hereby declare, that all that portion of the within plat which is included between the "red lines" embracing the whole of blocks No. 37, 38, 39, 41, 42, 43, 49, 50, and 51, and part of blocks 34, 35, 40, 45, 46, 48, and 52, and which are situated partly upon the southwest, and partly upon the southeast, fractional quarter of section No. nine, 8 N., 8 E. of the fourth principal meridian, we have laid out as an addition to the town of Peoria; and we do hereby certify, that all the lots, streets, and alleys, are of the size and dimensions as set forth in the certificate of the county surveyor. Given under our hands and seals this twenty-second day of June, A. D. 1836.

LEWIS BIGELOW, [L. S.]
ISAAC UNDERHILL. [L. S.]

STATE OF ILLINOIS, *Peoria county.*

I, Cyrus Leland, a justice of the peace, hereby certify, that on this 22d day of June, A. D. 1836, the above named Lewis Bigelow and Isaac Underhill, who are personally known to me to be the persons whose names are subscribed to the above instrument of writing as having executed the same, personally appeared before me and acknowledged the same to be their free act and deed.

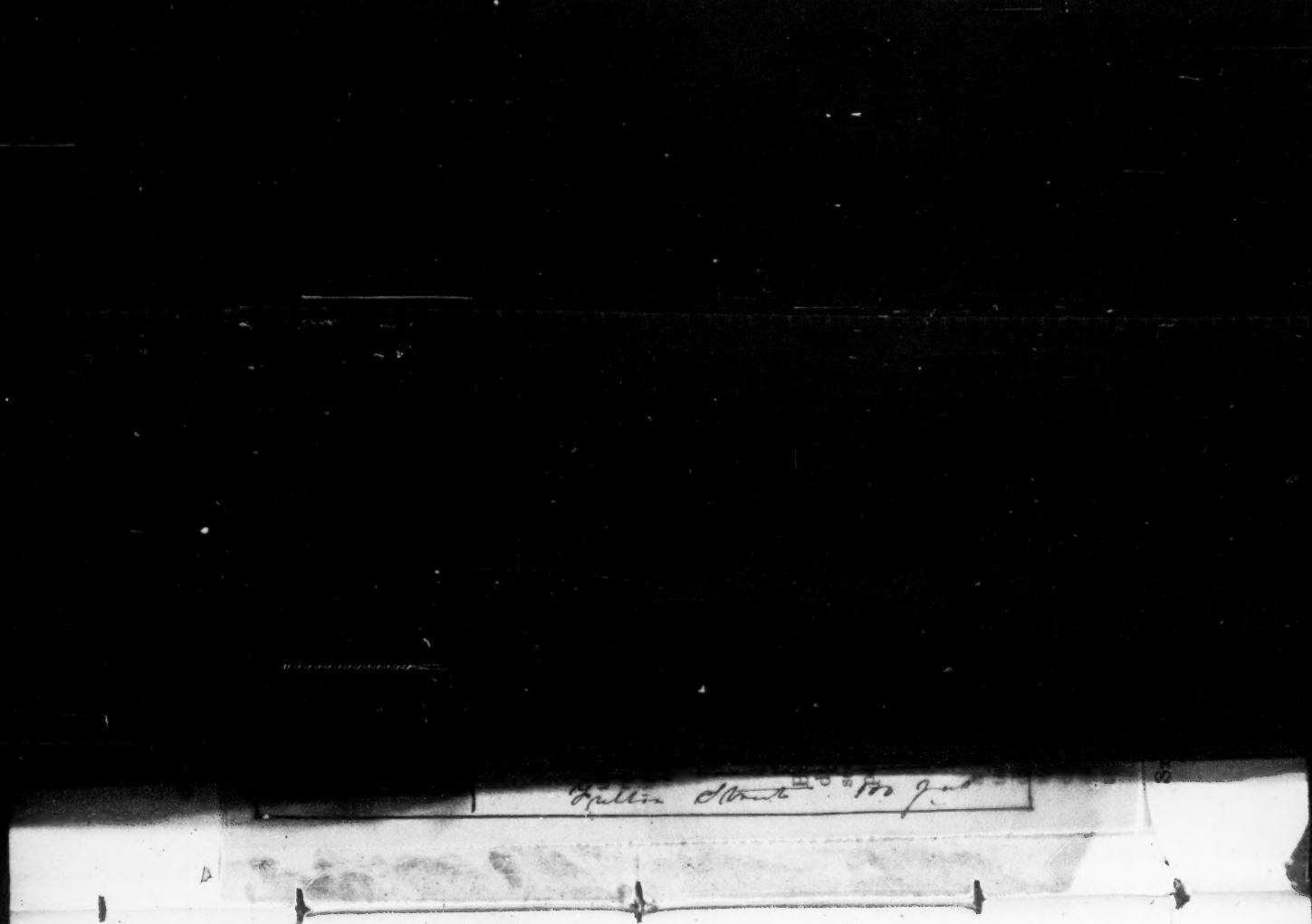
CYRUS LELAND, *Justice peace.*

(A 1.)

Bigelow and Underhill's addition to Peoria, Illinois.

[For plat, see original, page 21.]

The lots inside the red lines are Bigelow and Underhill's addition to the town of Peoria; blocks 40, 41, and 42, Bigelow's only; lots in block 34, 72 feet front by 171 feet deep; on blocks 48 and 49, 60 feet front on Water street, by 125 feet deep; blocks 50, 51, and 52, 60 feet front, depth marked on the plat. The balance of the lots are 60 feet front by 171 feet deep. Alleys 18 feet wide, except the alley in block 48, which is 14 feet wide.



SURVEYOR'S OFFICE, PEORIA, *June* 22, 1836.

I, Thomas Phillips, county surveyor of Peoria county, do certify that the within named plat is a true and correct survey.

THOS. PHILLIPS.

STATE OF ILLINOIS, *Peoria county, ss.*

I, Jacob Gale, clerk of the circuit court, and ex officio recorder of said county, do hereby certify, that the foregoing is a full, true, correct, and complete copy of a plat of Bigelow's and Underhill's addition to the town of Peoria, and of the deed, certificate of acknowledgment, and surveyor's certificate accompanying and concerning the same, as they stand recorded in said recorder's office in said county, in book G, at pages 30 and 31.

In testimony whereof I have hereto set my hand and affixed the seal of said court at Peoria, this 27th day of December, A. D. 1849. [L. S.]

JACOB GALE,
Clerk of circuit court and recorder of Peoria county, Illinois.

LAND OFFICE, QUINCY, ILLINOIS, *November* 17, 1832.

SIR: Yours of the 31st ultimo was duly received; and in reply thereto, I have to say that your proof of a pre-emption has been duly received previous to the 5th October, partly by Mr. Bigelo, and partly by mail, which were adjudged in this office to be sufficient.

Very respectfully, your humble and ob't servant,

SAML. ALEXANDER.

JOHN L. BOGARDIES, esq.

LAND OFFICE, QUINCY, *January* 4, 1833.

I hereby certify, that on the fourth day of August, 1832, John L. Bogardies, of Peoria, in the State of Illinois, filed in this office evidence of his rights of pre-emption to the southeast fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, under the act of Congress of April 5th, 1832.

SAML. ALEXANDER, *Register.*

[Endorsed—"Rece'd" in King & Wilson's letter of 2d Sept. 1837.]

I do solemnly swear that I am an actual settler and housekeeper on a tract of public land, viz., the southeast quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, in the State of Illinois, which said tract or quarter section contains about twelve acres, and I hereby apply to enter the same for pre-emption, under the provisions of the act of Congress, approved the 5th of April, 1832, entitled "an act supplementary to the several laws for the sale of public lands," which will include my improvements.

JNO. L. BOGARDUS.

STATE OF ILLINOIS, *county of Peoria, ss.*

July 24, 1832. Sworn to before me. ISAAC WATERS,
Clerk pro. tem., circuit court.

I, Augustus Langworthy, of Peoria, in the State of Illinois, testify and say, that I am well acquainted with the situations of the several lots of land bordering on the Illinois river, in township eight north, range eight east, of the fourth principal meridian, and that the lot upon which John L. Bogardies has made various improvements by the erection of buildings, enclosing and cultivating a part of the lot, and by the establishment of a ferry adjoining it over the Illinois river, in the south-east fractional quarter of section nine, in said township. I further testify, that I have been a resident in said township for six or seven years past, and that during that period the said Bogardies has occupied and improved said lot. I further say, that I am in no way interested in the same. AUGUSTUS LANGWORTHY.

STATE OF ILLINOIS, *Peoria county, ss.*

August 15, 1832. Augustus Langworthy, above named, who is personally known to me, made oath to the truth of the foregoing affidavit by him subscribed, before me, ISAAC WATERS,
[L. S.] *Clerk pro. tem., circuit court, said county.*

I, Isaac Waters, of Peoria, in the State of Illinois, testify and say, that I removed to the county of Peoria seven or eight years ago, and have known John L. Bogardies, of said Peoria, ever since. When I first removed here the said Bogardies had established a ferry over the Illinois river, at the outlet of Lake Peoria, and has since erected sundry buildings on the west side of the river on the lot of land on which the ferry landing is located. He has also enclosed and cultivated a part of the lot, and has hitherto kept up and maintained said ferry, and occupied and improved said lot and buildings by himself and tenants. I further testify, that in my opinion the said ferry is of great public utility and necessity. I further say, that I have no interest in the subject matter of this affidavit. ISAAC WATERS.

STATE OF ILLINOIS, *Peoria county, ss.*

July 30, 1832. The above named Isaac Waters, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by himself subscribed, before me,

A. WREN, *J. P.*

I, Stephen Carel, of the county of Peoria, in the State of Illinois, testify and say, that I came to the Illinois river about eleven years ago, and have lived at and near Peoria on said river ever since, except about two years that I resided at Galena. When I first came to this county, John L. Bogardies, of said Peoria, lived with his family on the west bank of the Illinois river, near where his ferry now is. About three years afterwards he established the ferry, which is situated at the outlet of Lake Peoria, and, from time to time, erected sundry houses and buildings on the west side of the river, upon the lot upon which the ferry landing is established, and also enclosed and cultivated a part of the lot.

I further testify and say, that the said Bogardies has ever since kept up and maintained said ferry, and occupied and improved said lot and buildings, by himself and tenants. I further say, that I have no interest in the subject matter of this affidavit.

his
STEPHEN x CAREL.
mark.

STATE OF ILLINOIS, *county of Peoria, ss.*

July 27, 1832. Then Stephen Carel, above named, who is personally known to me, appeared and made oath, that the foregoing affidavit by him subscribed is true, before me,

ISAAC WATERS,
Clerk, pro tem., circuit court, said county.

I, William Wright, testify and say, that seven years ago, last autumn, I came to this country, and crossed the Illinois river in the ferry established by John L. Bogardies, at the outlet of Lake Peoria; at that time there was a house on the west bank of the river, near the ferry landing, in which Stephen French then lived as tenant of Mr. Bogardies, and tended said ferry. Since that time Mr. Bogardies has erected sundry other buildings on the same lot or tract of land, and enclosed and cultivated a part of the same.

I further certify, that said lot is understood to be public land, and the fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian; and that ever since my first acquaintance with the said Bogardies, he has occupied and improved said land and buildings, by himself or his tenants, and kept up and maintained said ferry.

I further testify, that about two years ago a log cabin, two stories high, was erected by Mr. Bogardies, as I understood, on the east bank of the river, at the ferry landing, for the convenience and accommodation of travellers and passengers. I further say, that I have no interest in the subject matter of this affidavit.

WILLIAM WRIGHT.

STATE OF ILLINOIS, *county of Peoria.*

July 24, 1832. Then William Wright, above named, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by him subscribed, before me,

ISAAC WATERS,
Clerk, pro tem., circuit court.

[Endorsed—"Rec'd," in letter of R. & R., 11th Dec., 1837.]

LAND OFFICE AT QUINCY, ILL.,
No. 13,258. *15th November*, 1837.

It is hereby certified, that, in pursuance of law, John L. Bogardies, New York county, State of New York, on this day purchased of the

register of this office the lot in southeast fractional quarter of section No. 9, in township No. 8 north, of range No. 8 east, containing twenty-three $\frac{98}{100}$ acres, at the rate of one dollar and twenty-five cents per acre, amounting to twenty-nine dollars and $91\frac{1}{4}$ cents, for which the said John L. Bogardies has made payment in full, as required by law.

Now, therefore, be it known, that, on presentation of this certificate to the Commissioner of the General Land Office, the said John L. Bogardies shall be entitled to receive a patent for the lot above described, subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

SAM'L LEECH, *Register.*

[Endorsed—Issued by order of the Commissioner of the General Land Office, dated 4th September, 1837.]

SAM'L LEECH, *Register.*

Patent dated 5th January, 1838. Recorded vol. 1, p. 149.

GENERAL LAND OFFICE, 3*d Oct.*, 1832.

LEWIS BIGELOW, esq., *Peoria, Ill.*

SIR: In reply to your letter of the 10th and 13th of August last, I have the honor to state, that the terms of the act of the 5th April last are specific, in requiring the person claiming a pre-emption to be an actual housekeeper on the lands applied for. Mr. Bogardies states, in his affidavit, that he was, on 5th April last, an actual settler and housekeeper on the S. E. $\frac{1}{4}$ of 9, 8 N., 8 E.; to this lot his pre-emption is good, but the lots on the opposite side of the river, also claimed by him, *is* not considered as adjoining his lot, and cannot, therefore, come within the law.

If Messrs. May and Taylor, register and receiver, are satisfied of the truths of the affidavits of Mr. Bogardies, his pre-emption to the first named lot, viz., S. E. fractional quarter 9, 8 N., 8 E., will be granted.

I am, &c.

E. HAYWARD.

GENERAL LAND OFFICE, *Sept.* 4, 1832.

To REGISTER and RECEIVER,
Quincy, Illinois.

GENTLEMEN: It appears, from documents filed in this office, that on the fourth day of August, 1832, John L. Bogardies, of Peoria, in the State of Illinois, filed in the land office at Quincy evidence of his right to the S. E. fractional quarter sect. 9, T. 8 N., R. 8 E., of the fourth principal meridian, under the act of 5th April, 1832, which right was adjudged by the land officers of said district to be established; and it also appearing, from a letter written by this office to Lewis Bigelow, dated 3d October, 1832, that the same opinion was held here with regard to said claim; it also further appearing that, for the want of plat

and other causes, no certificate has been issued to said claimant, you are, therefore, hereby authorized to permit said John L. Bogardies to make the entry of said S. E. fractional qr., upon your receiving from the surveyor general a subdivisional plat of *of* fractional sect. 9, showing the separate contents of said S. E. fractional quarter, to whom you will apply for that purpose. In consequence of the act of Congress, of 3d March, 1823, entitled, "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," you will, in the body of the certificate, immediately after the last word "described," insert the following, "subject, however, to the rights of any and all persons claiming under act of Congress, [of] 3d March, 1823, entitled 'An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.'"

You will also endorse on such certificate the reasons for issuing the same, referring to the date of this communication.

Respectfully, your obedient servant,
JAMES WHITCOMB, *Com'r.*

GENERAL LAND OFFICE, *Sept.* 7, 1837.

REGISTER and RECEIVER,
Quincy, Illinois.

GENTLEMEN: By reference to my letter of 4th instant, it will be perceived that instructions were given you to permit John L. Bogardies to enter, under certain restrictions, the S. E. fractional quarter 9, 8 N., 8 E. These instructions were based on a certificate of the former register with regard to the adjudication of his claim, and a communication from this office to Lewis Bigelow, of 3d October, 1832, recognising said claim as then reported by register and receiver, to the S. E. fractional quarter aforesaid, without reference to certain papers which have been filed in this office, going to show that Abigal Waters also claims said fractional quarter section, and which were not before me when those instructions were given.

You will, therefore, in your action on the matter, have a due regard to the existence of the said claim of Waters, barely remarking, on my part, that if said claim of Waters is based on the act of 19th June, 1834, that of John L. Bogardies must take precedence, and my instructions in regard to it carried into effect.

Respectfully, your obedient servant,
JAMES WHITCOMB, *Com'r.*

LAND OFFICE, QUINCY, ILLINOIS,
1 *December*, 1837.

SIR: In pursuance of instructions contained in your letter of the 4th and 7th September last, John L. Bogardies has been permitted to enter, under certain restrictions, the S. E fr. qr. of sec. 9, 8 N., 8 E., certificate No. 13,258, under the Pre-emption act of 1832, and under the same instructions, and with the same restrictions, Charles Ballance has

been permitted to enter the S. W. fr. qr. of sec. 9, 8 N., 8 E., certificate No. 13,293, under the Pre-emption act of 1834. I inserted in both applications the same clause as in the certificates of purchase in relation to the rights of persons claiming under the act of Congress, approved the 3d March, 1823. The pre-emption proof of Bogardies and Ballance, together with that of William Powell, for N. W. qr. section 6, 5 N., 4 E., certificate No. 13,284, which was entered under instructions in your letter of 7th September, 1837, are herewith enclosed, having been omitted to be sent with my last returns.

Very respectfully, your obedient servant,

SAML. LEECH, *Register*.

Hon. JAMES WHITCOMB,
Com. General Land Office.

GENERAL LAND OFFICE,
April 28, 1846.

I, James Shields, commissioner of the General Land Office, do hereby certify, that the foregoing seven pages, and part of this the eighth page, are truly copied from the files and records of this office.

In testimony whereof I have hereunto set my name, and caused the [L. S.] seal of said office to be affixed, the day and date last above written.

JAS. SHIELDS, *Comr*.

Patent to John L. Bogardus. (*B* 2.)

The United States of America, to all to whom these presents shall come, greeting:

Whereas, John L. Bogardus, of New York county, New York, has deposited in the General Land Office of the United States a certificate of the register of the land office at Quincy, whereby it appears that full payment has been made by the said John L. Bogardus, according to the provisions of the act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public land," for the southeast fractional quarter of section nine, in township eight north, of range eight east, in the district of lands subject to sale at Quincy, Illinois, containing twenty-three acres and ninety-three hundredths of an acre, according to the official plat of the survey of the said land, returned to the General Land Office by the surveyor general, which said tract has been purchased by the said John L. Bogardus.

Now, know ye, that the United States of America, in consideration of the premises, and in conformity with the several acts of Congress, in such case made and provided, have given and granted, and by these presents do give and grant, unto the said John L. Bogardus, and to his heirs, the said tract above described. To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, unto the said John L. Bogardus, and to his heirs and assigns forever.

Subject, however, to the right of any and all persons claiming under the act of Congress of 3d March, 1823, entitled, "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

In testimony whereof I, Martin Van Buren, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the fifth day of January, in the year of our Lord one thousand eight hundred [L. S] and thirty-eight, and of the independence of the United States the sixty-second.

By the President: MARTIN VAN BUREN,
By A. VAN BUREN, *Secretary.*

H. M. GARLAND,
Recorder of the General Land Office.

Deed.

John L. Bogardus to Isaac Underhill, S. E. fr. qr. sec. 9, 8 N., 8 E.
(G 3.)

Know all men by these presents, that I, John L. Bogardus, of Peoria, in the county of Peoria, and State of Illinois, in consideration of one thousand and fifty dollars, to me in hand paid by Isaac Underhill, of said Peoria, the receipt whereof I do hereby acknowledge, do hereby grant, sell, and convey, unto said Underhill, all my right and interest in and unto the southeast fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, in said Illinois; and also in and unto the ferry established across the Illinois river, in said Peoria, together with the boats and other implements thereunto belonging; to have and to hold the same, to the said Underhill, his heirs and assigns, forever, with all the privileges and appurtenances thereunto belonging.

In witness whereof I have hereunto set my hand and seal, this fifth day of August, A. D. 1834.

JOHN L. BOGARDUS. [SEAL.]

Signed, sealed, and delivered, in presence of—
ORIN HAMLIN.

STATE OF ILLINOIS, *Peoria county, ss.*

This day personally appeared before the undersigned, an acting justice of the peace in and for Peoria county, John L. Bogardus, who being personally known to me to be the same person, and acknowledged the within to be his act and deed, for the uses and purposes therein contained.

Given under my hand and seal, this fifth day of August, one thousand eight hundred and thirty-four.

ORIN HAMLIN, *J. P.* [SEAL.]

STATE OF ILLINOIS, *Peoria county, ss.*

I, Jacob Gale, clerk of the circuit court and ex officio recorder of said

county, do hereby certify, that the foregoing is a full and correct copy of a deed and the certificate of acknowledgment thereof, as the same stands recorded in my office on pages 182 and 183 of book D, of record of deeds.

In witness whereof I have hereto set my hand and affixed
[L. S.] the seal of said court, at Peoria, this 27th day of December, A. D. 1849.

JACOB GALE, *Clerk and Recorder.*

Isaac Underhill and wife, to William E. Mason, north two-thirds, 40 feet, pt. lot 3, in block (50,) B. and U.'s addition.

(D. 4.)

This deed, made this first day of October, eighteen hundred and forty-two, witnesseth: That Isaac Underhill and Jane S. Underhill, his wife, of the town of Peoria, county of Peoria, State of Illinois, in consideration of five hundred dollars to them paid by William E. Mason, of the county of Peoria, State of Illinois, the receipt of which is hereby acknowledged, do, by the[se] presents, grant, bargain, sell, convey, and confirm, to the said William E. Mason, the following described real estate, viz.:

Lot No. seven, (7,) in block No. forty-two, (42;) lot No. one, (1,) in block No. forty-eight, (48;) lots No. five and seven, (5 and 7,) in block No. forty-nine, (49;) north half of lot No. four, (4,) in block No. fifty. Also the northerly two-thirds of lot (40 feet front and rear) of lot three, in block No. fifty; and also lot No. four, (4,) in block fifty-one, (51,) in Bigelow's and Underhill's addition to Peoria:

To have and to hold the afore described premises, with the appurtenances thereunto belonging, to the said William E. Mason, his heirs and assigns, forever; the said Isaac Underhill and Jane S. Underhill hereby covenanting that they will warrant and defend the title to the aforesaid premises to the said William E. Mason, his heirs and assigns, forever, against all persons, except those who claim under the act of Congress, passed on March 3d, 1823, called French claims.

In testimony whereof the said Isaac Underhill and Jane S. Underhill have hereunto set their hands and seals the day and year above written.

ISAAC UNDERHILL, [L. S.]
JANE S. UNDERHILL. [L. S.]

Done in presence of GEORGE B. PARKER.

STATE OF ILLINOIS,
County of Peoria, ss.

I, George B. Parker, an acting justice of the peace, within and for the county aforesaid, do certify, that Isaac Underhill and Jane S., his wife, whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in and who executed the

same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Jane S. Underhill having been by me made acquainted with the contents of the said deed, and examined separate and apart from her said husband, acknowledged that she has executed the same, and relinquished her dower to the premises therein conveyed, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal, this first day of October, in the year of our Lord one thousand eight hundred and forty-two.

GEO. B. PARKER, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of Peoria, ss.

I, Jacob Gale, clerk of the circuit court and ex officio recorder of deeds for said county, do hereby certify, that the foregoing is a full and correct copy of a deed and the certificate of acknowledgment thereof, as the same stands recorded in my office on page 173 of book N, of the records of deeds.

In testimony whereof I hereto set my hand and affixed the [L. S.] seal of said court, at Peoria, this 27th day of December, A. D. 1849.

JACOB GALE, *Clerk and Recorder.*

Deed.

Isaac Underhill and wife, to Jesse L. Knowlton, lot (2,) in block (50,) in B. and U.'s addition.

(E. 5.)

This deed, made this sixteenth day of November, eighteen hundred and forty-two, witnesseth: That Isaac Underhill and Jane S. Underhill, his wife, of the county of Peoria, State of Illinois, in consideration of two hundred and fifteen dollars, to them paid by Jesse L. Knowlton, of the county of Peoria, and State of Illinois, the receipt of which is hereby acknowledged, do, by these presents, grant, bargain, sell, convey, and confirm to the said Jesse L. Knowlton, the following described real estate, viz.:

Lot No. two, (2,) in block No. fifty, (50,) in Bigelow and Underhill's addition to Peoria as laid off in 1836, with the dwelling-house thereon.

To have and to hold the afore described premises and the appurtenances thereunto belonging, to the said Jesse L. Knowlton, his heirs and assigns, forever. The said Isaac Underhill and Jane S. Underhill hereby covenanting, that they will warrant and defend the title to the aforesaid premises to the said Jesse L. Knowlton, his heirs and assigns, forever, against all persons whomsoever.

In testimony whereof the said Isaac and Jane S. Underhill have hereunto set their hands and seals, the day and year above written.

ISAAC UNDERHILL, [SEAL.]
JANE S. UNDERHILL. [SEAL.]

Done in presence of GEO. T. METCALF.

STATE OF ILLINOIS,
County of Peoria, ss.

I, George B. Parker, an acting justice of the peace within and for said county aforesaid, do certify, that Isaac Underhill and Jane S., whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Jane S. Underhill, having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she has executed the same, and relinquished her dower to the premises therein conveyed, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal, this sixteenth day of November, in year of our Lord one thousand eight hundred and forty-two.

GEO. B. PARKER, *J. P.* [SEAL.]

STATE OF ILLINOIS,
County of Peoria, ss:

I, Jacob Gale, clerk of the circuit court and ex officio recorder of deeds for said county, do hereby certify, that the foregoing is a full and correct copy of a deed and the certificate of acknowledgment thereof, as they stand recorded in my office on page 142, in book N, of records of deeds.

In testimony whereof I hereto set my hand and affix the seal of said court at Peoria, this 27th day of December, A. D. 1849.

[L. S.] JACOB GALE,
Clerk and Recorder.

Jesse L. Knowton and wife, to Joshua P. Hotchkiss, lot No. (2,) in block (50,) in B. & U's. addition. (F 6.)

Know all men by these presents, That we, Jesse L. Knowlton and Olive, his wife, both of Peoria, Peoria county, in the State of Illinois, in consideration of the sum of two hundred and thirteen dollars, to us paid by Joshua P. Hotchkiss, the receipt of which is hereby acknowledged, do, by these presents, grant, bargain, remise, release, and forever quit claim, unto the said Joshua P. Hotchkiss, his heirs and assigns, lot number two (2,) in block number fifty (50,) in Bigelow and Underhill's addition to the town of Peoria, in the county of Peoria, and State of Illinois, reference being had to the recorded plat of said addition. To have and to hold the same with the privileges and appurtenances, to the said Hotchkiss, his heirs and assigns, forever. And I, the said Jesse L. Knowlton, for myself, and my heirs and representatives, do covenant with the said Hotchkiss, his heirs and assigns, that we have full power to sell and convey the said premises as aforesaid, that

they are free of all encumbrances done or suffered by us, and that we will, and our representatives shall, warrant and defend the same to the said Hotchkiss, his heirs and assigns, against the claims of all persons claiming by, through, or under us.

In testimony whereof we have hereunto set our hands and seals this day and twentieth day of November, A. D. 1843.

J. L. KNOWLTON, [SEAL.]
OLIVE KNOWLTON. [SEAL.]

Attest: THOMAS BRYANT.

STATE OF ILLINOIS,
Peoria county, ss:

I, Thomas Bryant, a justice of the peace within and for the said county of Peoria, do hereby certify, that Jesse L. Knowlton and Olive Knowlton, his wife, whose signatures appear to the foregoing deed, and who are personally known to be the persons described in, and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Olive Knowlton, having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same, and relinquished her dower to the premises therein conveyed voluntarily, freely, and without compulsion, of her said husband.

Given under my hand and seal this twenty-third day of November, A. D. 1843.

THOMAS BRYANT, *J. P.* [SEAL.]

STATE OF ILLINOIS,
Peoria county, ss:

I, Jacob Gale, clerk of the circuit court and ex officio recorder of said county, do hereby certify, that the foregoing is a full and correct copy from the records of deeds of said county, of a deed and the certificate of acknowledgment thereof, as the same stands recorded in book O, on pages 12 and 13, in my office.

In testimony whereof I hereto set my hand and the seal of said court, at Peoria, this 27th day of December, A. D. 1849.

[L. S.] JACOB GALE,
Clerk and recorder.

William E. Mason and wife, to Joshua P. Hotchkiss, 12 feet, part lot (3,) in block (50,) adjoining lot (2,) in Bigelow and Underhill's addition. (G 7.)

Know all men by these presents, that I, William E. Mason, and Ann Mason, his wife, for and in consideration of the sum of fifty dollars, to us paid by Joshua P. Hotchkiss, the receipt whereof is hereby acknow-

ledged, have granted, bargained, sold, and conveyed, and by these presents do grant, bargain, sell, and convey, unto the said Joshua P. Hotchkiss, his heirs and assigns, a part of lot number three (3,) in block number fifty (50,) in Bigelow and Underhill's addition to the town of Peoria, in the county of Peoria, and State of Illinois, viz: Beginning at lot 2, on Water street; thence southwardly along Water street twelve (12) feet; thence to the Illinois river, parallel to the line between lots 2 and 3, in said block; thence northwardly along the river twelve (12) feet; thence along the line of lot two (2,) to the place of beginning, being twelve feet front and rear, and running from Water street to the Illinois river. To have and to hold the same, with the privileges and appurtenances thereto belonging, to the said Joshua P. Hotchkiss, his heirs and assigns, forever. And we, the said William E. Mason and Ann Mason, his wife, for ourselves, heirs, executors, and administrators, do hereby covenant and agree, with the said Joshua P. Hotchkiss, his heirs, and assigns, that we are seized in fee of the above granted premises; that they are free and clear of all encumbrances, and that we have full power to sell and convey the same; and that we will, and our heirs, executors, and administrators shall, warrant and defend the same to the said Joshua P. Hotchkiss, his heirs and assigns, forever, against the lawful claims and demands of all persons whatever, except those known as French claims.

In testimony whereof we have hereunto set our hands and seals, this 18th day of November, in the year of our Lord one thousand eight hundred and forty-three.

WILLIAM E. MASON, [SEAL.]
ANN MASON. [SEAL.]

STATE OF ILLINOIS,
County of Peoria.

I, William Mitchell, clerk of the circuit within and for the county aforesaid, do certify, that William E. Mason and Ann Mason, his wife, whose signatures appear to the foregoing deed, and who is personally known to be the persons described in, and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned. And the said Ann E. Mason, having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same, and relinquished her dower to the premises therein conveyed voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal of said court, this 11th day of November, in the year of our Lord one thousand eight hundred and forty-three.
[SEAL.]

WILLIAM MITCHELL, *Clerk.*

STATE OF ILLINOIS,
Peoria county, ss.

I, Jacob Gale, clerk of the circuit court, and ex officio recorder of

deeds for said county, do hereby certify, that the foregoing is a full and correct copy of a deed, and the certificate of acknowledgment thereof, as the same stand recorded in my office in book N, on pages 630 and 631 of the records of deeds.

In testimony whereof I hereto set my hand and affix the seal of said court, at Peoria, this 27th day of December, A. D. 1849.
[L. S.]

JACOB GALE,
Clerk and recorder.

Deed.—William E. Mason and wife to William Lambert, 28 feet, part lot (3) in block (50,) B. & U's. addition. (H 8.)

This indenture, made this fifteenth day of November, one thousand eight hundred and forty-three, between William E. Mason and Ann Mason, his wife, of the first part, and William Lambert, of the second part, witnesseth: That the said part[y] of the first part, in consideration of two hundred dollars to them duly paid before the delivery hereof, hath bargained and sold, and by these presents doth grant and convey, to the said party of the second part, part of lot number three in block No. fifty, (50,) in Bigelow and Underhill's addition to Peoria, as laid off in 1836, beginning twelve feet from the southerly line of lot No. two, in Water street; thence southerly along Water street twenty-eight feet; thence through to the Illinois river, parallel to the line between lots No. 2 and 3, in said block; thence northwardly along the Illinois river twenty-eight feet; thence to the place of beginning, on Water street, being twenty-eight feet front and rear, running from Water street to the Illinois river. To have and to hold the above described land, with the appurtenances, and all the estate, title, and interests of the said part[y] of the first part therein. And the said parties of the first part doth covenant and agree with the said party of the second part, that they hath not done or committed any act or thing whereby the said premises above granted are, or can be, in any way charged or encumbered; and warrant and defend against no other persons whomsoever.

In witness whereof the said parties of the first part hath hereunto set their hands and seals, the day and year above written.

WILLIAM E. MASON, [SEAL.]
ANN MASON. [SEAL.]

STATE OF ILLINOIS,
County of Peoria, ss.

I, William Mitchell, clerk of the circuit court, in and for the county aforesaid, do certify, that this day appeared, before me, the within named William E. Mason and Ann Mason, his wife, personally known to me to be the identical persons who signed and sealed the within and foregoing deed or instrument of writing; and who acknowledged that they executed the same for the use and purposes therein mentioned and expressed. And the said Ann Mason, wife of the said William

E. Mason, being examined by me, separate and apart, and out of the presence and hearing of her said husband, and the contents of the within deed or instrument of writing by me to her made known, whether she doth relinquish her right of dower to the premises therein mentioned and described, acknowledged that she doth, freely and willingly, without fear or compulsion of or from her said husband.

Given under my hand and seal of said court, this 15th day of November, A. D. 1843.

[L. S.] WILLIAM MITCHELL, *Clerk.*

Deed.—William Lambert and wife to John Reynolds, 28 feet, part lot (3) in block 50, B. & U's. addition. (I 9.)

This deed, made this eleventh day of May, eighteen hundred and forty-seven, witnesseth, that William Lambert and Rebecca Lambert, his wife, of the town of Peoria, county of Peoria, State of Illinois, in consideration of three hundred and thirty-six dollars, to them paid by John Reynolds, of the county of Peoria, State of Illinois, the receipt of which is hereby acknowledged, do, by the presents, grant, bargain, sell, convey, and confirm, to the said John Reynolds, the following described real estate, viz., part of lot No. three, (3,) in block No. fifty, (50,) in Bigelow and Underhill's addition to Peoria, reference being had to their recorded plat; beginning on Water street, twelve feet from the lot No. two in said block; thence along Water street towards Hudson street twenty-eight feet; thence to the Illinois river parallel with Hudson street; thence along the Illinois river, towards lot No. two aforesaid, twenty-eight feet; thence to the place of beginning; making 28 feet front and rear, more or less, running from Water street to the river. To have and to hold the afore described premises, with the appurtenances thereto belonging, to the said John Reynolds, his heirs and assigns, forever. The said William Lambert and wife hereby covenanting that they will warrant and defend the title to the aforesaid premises to the said John Reynolds, his heirs and assigns, forever, against all persons claiming by, through, or under said William Lambert, and none others whomsoever.

In testimony whereof the said William Lambert and wife have hereunto set their hands and seals, the day and year above written.

WM. LAMBERT, [L. S.]
REBECCA LAMBERT. [L. S.]

STATE OF ILLINOIS, *county of Peoria, ss.*

I, Thomas Bryant, an acting justice of the peace, within and for the aforesaid county, do certify, that William Lambert and Rebecca Lambert, his wife, who are personally known to me to be the real persons whose names are subscribed to the foregoing deed of conveyance, and by whom, and in whose names, the same is proposed to be acknowledged, and then and there severally acknowledged their signatures thereto to be their voluntary act and deed, for purposes therein

2081.

mentioned. The said Rebecca Lambert having been by me made acquainted with the contents of said deed, and by me examined separate and apart from her said husband, whether she executed the same and relinquished her rights of dower in the lands and tenements therein mentioned freely, voluntarily, and without compulsion of her said husband, acknowledged that she executed the same and relinquished her rights of dower in the lands and tenements therein mentioned freely, voluntarily, and without compulsion of her said husband; and that she does not wish to retract.

Witness my hand and seal, at Peoria, this 11th day of May, A. D. 1837.

THOMAS BRYANT, *J. P.* [SEAL.]

Deed.

J. P. Hotchkiss, and wife, to John Reynolds, 12 feet lot (3,) and 38 feet lot (2.)

(J 10.)

This indenture, made this twentieth day of May, in the year of our Lord, one thousand eight hundred and forty-seven, between Joshua P. Hotchkiss, of Peoria county, State of Illinois, and Harriet N. B. Hotchkiss, his wife, of the first part, and John Reynolds, of Peoria city and county, and State of Illinois, of the second part, witnesseth: That the said party of the first part, for and in consideration of the sum of six hundred dollars, paid by the said party of the second part, the receipt of which is hereby acknowledged, do by these presents bargain, sell, transfer, and quit claim, unto the said party of the second part, his heirs and assigns, all their right, title, and interest, and claim, both legal and equitable, of, in, and to certain tracts or parcels of land, situated in Peoria city, viz., a part of lot three, in block fifty, in Bigelow & Underhill's addition to Peoria, beginning at lot two on Water street; thence southerly, along Water street, twelve feet, (12;) thence to the Illinois river, parallel with the line of lots (2 and 3,) in the same block; thence northwardly, along the river, twelve feet, (12;) thence along the line of lot two, (2,) to the place of beginning; being twelve feet front and rear, running from Water street to the river.

Also, a part of lot two, (2,) in block fifty, (50,) Bigelow and Underhill's addition to the town of Peoria, viz., commencing at the corner of lots two and three, on Water street, in Bigelow and Underhill's addition to Peoria; thence northwardly, on the line of Water street, thirty-eight feet, (38;) thence to the Illinois river, on a line parallel with the line between lots two and three, in same block; thence southwardly, along the river, to the line of lot two, in same block, thirty-eight feet, (38;) thence, up said line, to the place of beginning; being thirty-eight feet front and rear, running from Water street to the Illinois river, together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining; to have and to hold the said premises, as above described, with the appurtenances, except the build-

ing and fencing now on said lots, which said Hotchkiss is to hold and have the use of ground for, paying taxes until said Reynolds wishes to improve, when said Hotchkiss is to have reasonable notice to remove the improvements he has or may make, unto the said party of the second part, and his heirs and assigns, forever. And the said party of the first part do hereby covenant and agree, to and with the said party of the second part, and his heirs, that they will forever warrant and defend the title to the premises above conveyed, to be free from the claim of themselves and their heirs, and from the claim of all and any person claiming by, through, or under them, or their heirs, but against the claim of none others.

In testimony whereof the said parties of the first part have hereunto set their hand and seal the day and year first above written.

J. P. HOTCHKISS, [SEAL.]
H. N. B. HOTCHKISS. [SEAL.]

Deed.

J. P. Hotchkiss, and wife, to John Reynolds, 12 feet part lot (3,) in B. (50,) adjoining lot (21;) 38 feet, part lot (2,) in B. (50,) adjoining lot (3,) B. and U.'s addition.

STATE OF ILLINOIS, *Peoria county, ss.*

I, Jonathan K. Cooper, a justice of the peace, in and for said county, do certify, that on this day personally appeared before me Joshua P. and H. N. B. Hotchkiss, whose names appear subscribed to the foregoing deed of conveyance, and who are personally known to me to be the real persons who, and in whose name, the acknowledgment of the above deed is proposed to be made, as having executed the same, and acknowledged the execution thereof as their voluntary act and deed, for the uses and purposes therein expressed. And the said Harriet N. B. Hotchkiss, wife of the said Joshua P. Hotchkiss, having been by me made acquainted with the contents of the said deed, and being by me examined, separate and apart from her husband, whether she had executed the same and relinquished her dower to the lands and tenements therein mentioned, acknowledged that she had executed the same and relinquished her dower to the lands and tenements therein mentioned, voluntarily and freely, and without compulsion of her husband, and does not wish to retract.

Given under my hand and seal, at Peoria, this 7th day of June, A. D. eighteen hundred and forty-seven.

JONATHAN K. COOPER, *J. P.* [SEAL.]

Deed.

John Reynolds an dwife to Josiah E. McClure, undivided ½ of Reynold's claim of 38 feet, lot 2, and forty (40) feet, lot 3.

(K 11.)

This indenture, made, executed, and entered into this fifteenth day

20f2.

of May, A. D. 1849, between John Reynolds and Sarah K. Reynolds, his wife, of the first part, and Josiah McClure of the second part, witnesseth: That the said parties of the first part, for and in consideration of the sum of one thousand dollars to them in hand paid by the said party of the second part, the receipt whereof is hereby specially acknowledged, have sold, remised, released, and quit-claimed, and by these presents do sell, remise, release, and forever quit-claim, unto the said party of the second part, his heirs, and assigns, the undivided half part of the following described tracts or parcels of land, situate in Bigelow and Underhill's addition to the town, now city, of Peoria, county of Peoria, and State of Illinois, viz., a part of lot No. two (2) in block No. fifty (50) in said addition, that is to say, beginning on Water street, at the corner of lots two and three in said block; running thence northeasterly along said Water street thirty-eight feet, (38;) thence to the Illinois river, on a line parallel with the dividing line between said lots two and three, and at right angles with said Water street; thence along said Illinois river southwesterly to the line between said lots two and three; thence along said line to the place of beginning, being thirty-eight feet front and rear, and running from Water street to the river; also the following part of said lot three, (3,) in said block, that is to say, beginning on Water street, at the corner of said lots two and three; running thence southwestwardly along said Water street forty (40) feet; thence, at right angles with said Water street, and parallel with the line between said lots two and three, to the Illinois river; thence in a northeastern course along the said river to the said dividing line between said lots two and three; thence along said dividing line to Water street, the place of beginning; said portion of lot three being forty feet front on Water street, and running back the same breadth to the river. To have and to hold the said undivided moiety of the said described premises, with the privileges and appurtenances thereto belonging, to him, the said Josiah E. McClure, party of the second part, his heirs, and assigns forever; so that neither we, the said John and Sarah K. Reynolds, party of the first part, nor either of us, nor our heirs, nor any person claiming from or under us or them, or in the name, right, or stead of us or them, shall, or will have, claim, or demand any right, title, or interest in and to the afore granted premises or their appurtenances, or to any portion or parcel thereof forever.

In witness whereof we, the said John Reynolds and Sarah K. Reynolds, have hereunto set our hands and seals, the day and year above written.

JOHN REYNOLDS, [SEAL.]
SARAH REYNOLDS. [SEAL.]

STATE OF ILLINOIS,
Peoria county, ss.

Be it remembered, that on this day came before me, clerk of the circuit court in and for said Peoria county, John Reynolds and Sarah Reynolds, who are both personally known to me to be the real persons whose

names appear subscribed to the foregoing deed of conveyance as having executed the same; and the said John Reynolds acknowledged that he executed the said deed for the purposes therein expressed; and the said Sarah Reynolds, wife of the said John Reynolds, having been made acquainted with the contents of said deed, and by me examined separate and apart from her husband, acknowledged that she had executed said deed, and relinquished her dower in and to the premises therein conveyed voluntarily and freely, and without fear or compulsion of her said husband.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Peoria, this fifteenth day of May, in [SEAL.] the year of our Lord one thousand eight hundred and forty-nine.

JACOB GALE, *Clerk.*

Deed.

Isaac Underhill and wife, to Aquilla Wren, lot (1,) in block (50.)

(L 12.)

This deed, made this 7th day of December, eighteen hundred and forty-one, witnesseth: That Isaac Underhill and Jane S. Underhill, his wife, of the town of Peoria, county of Peoria, State of Illinois, in consideration of four hundred dollars to them paid by Aquilla Wren, of the county of Peoria, State of Illinois, the receipt whereof is hereby acknowledged, do, by these presents, grant, bargain, sell, convey, and confirm, to the said Aquilla Wren, the following described real estate, viz., lot No. one, (1,) in block No. fifty, (50,) in Bigelow and Underhill's addition to Peoria, as laid off in 1836, being 60 feet front, running through to the river. To have and to hold the afore described premises, with the appurtenances thereunto belonging, to the said Aquilla Wren, his heirs and assigns, forever; the said Isaac Underhill and Jane S. Underhill hereby covenanting that they will warrant and defend the title to the aforesaid premises to the said Aquilla Wren, his heirs and assigns, forever, against all persons, except those claiming under the act of Congress passed March 3d, 1823, called French claims.

In testimony whereof the said Isaac and Jane S. Underhill have hereunto set their hands and seals the day and year above written.

ISAAC UNDERHILL, [SEAL.]
JANE S. UNDERHILL. [SEAL.]

Done in presence of—
DENNIS BLAKELEY.

STATE OF ILLINOIS,
County of Peoria, ss.

I, Dennis Blakely, an acting justice of the peace within and for the county aforesaid, do certify, that Isaac Underhill and Jane S., his wife,

whose signatures appear to the foregoing deed, and who are personally known to me to be the persons described in, and who executed the same, did severally acknowledge that they executed the said conveyance for the uses and purposes therein mentioned; and the said Jane S. Underhill having been by me made acquainted with the contents of said deed, and examined separate and apart from her said husband, acknowledged that she executed the same and relinquished her dower to the premises therein conveyed voluntarily and freely, and without compulsion of her said husband.

Given under my hand and seal, this seventh day of December, in the year of our Lord one thousand eight hundred and forty-one.

DENNIS BLAKELY, *J. P.* [L. S.]

STATE OF ILLINOIS,
Peoria county, ss.

I, Jacob Gale, clerk of the circuit court and ex officio recorder of deeds in and for said county, do hereby certify, that the foregoing is a full and correct copy of a deed and of the acknowledgment thereof, as the same stands recorded in my office in book M, of the records of deeds, at pages 329 and 330; entered for record February 2d, A. D. 1842.

[L. S.] In witness whereof I hereto set my hand and affix the seal of said court at Peoria, this 4th day of January, A. D. 1850.

JACOB GALE,
Clerk and Recorder.

Aquilla Wren's will.

(M 13.)

Probate court, special term, August 19th, 1844.

This day came Wm. S. Moss, and requested letters testamentary on estate of Aquilla Wren, deceased, and at the same time having made oath of the decease of said Wren, on or about the 16th day of August, A. D. 1844, and the will having been proved by two of the subscribing witnesses thereto according to law, it is therefore ordered by the court *that said court* that said will be recorded, and that letters testamentary on the same be granted to Wm. S. Moss, the executor therein named.

Will.

I, Aquilla Wren, of Peoria, Peoria county, Illinois, do make and publish this my last will and testament, hereby revoking and annulling all former wills and testaments whatsoever.

Item.

My will is that my just debts shall be paid, together with my necessary funeral expenses.

Item.

I give and bequeath to the daughters of my sister, Sarah Bobo, who resides in Athens county, Ohio, and to each of them now living, the sum of two hundred dollars each, to be paid to them by my executor at the earliest opportunity after the same can be raised out of my estate.

Item.

I give and bequeath all the residue of my estate, both real and personal, of every description and character, to my brother, Thomas Wren, and to his heirs and assigns, forever; and I do nominate and appoint my friend William S. Moss my executor, to carry into full and complete effect the provisions of my will before stated.

Witness my hand and seal, this 29th day of July, A. D. 1844.

A. WREN. [SEAL.]

Executed in presence of—
N. H. PURPLE,
SMITH FRYE,
A. O. GARRETT.

STATE OF ILLINOIS,
Peoria county, ss.

We, Norman H. Purple and A. O. Garrett, do solemnly affirm that we were present and saw Aquilla Wren sign this instrument as his last will and testament, and that we believed him at [the] time, and still do believe him, to have been of sound mind and memory at the time of executing said instrument, and that we at his request signed our names as subscribing witnesses thereto.

N. H. PURPLE,
A. O. GARRET.

Subscribed and affirmed to before me, this 19th day of August, 1844. WM. H. FESSENDEN, *P. J. P.*

STATE OF ILLINOIS,
County of Peoria.

I, Charles Kettelle, clerk of the county court, within and for said county, do hereby certify the foregoing to be a true and correct copy of the will of Aquilla Wren, deceased, and the proof thereof, as the same remains of record in the office of the county court, late probate court, of said county.

Witness my hand, and the seal of said court at Peoria, this fifth day of January, A. D. 1850.

[SEAL.] CHARLES KETTELLE, *Clerk.*

Deed.

Thomas Wren to John McDougall, lot 1, B. 50, N. 14.

Know all men by these presents, that I, Thomas Wren, of the city

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and county of Peoria, in the State of Illinois, in consideration of the sum of nine hundred dollars to me paid by John McDougall, of the same place, the receipt of which is hereby acknowledged, do grant, bargain, sell, and convey, unto the said John McDougall, his heirs and assigns, the following described lot of land, situate in Bigelow and Underhill's addition to the city of Peoria aforesaid, and known as lot No. one, (1,) in block No. fifty, (50,) bounded as follows, to wit: Beginning at the northeasterly corner of said lot, at the point of the intersection of Water and Harrison streets; thence southerly, down Water street sixty feet, to the line dividing said lot one (1) and two (2;) thence at right angles southeasterly towards the Illinois river to the said river; thence up the line of said river, to the intersection of Harrison street, with said river sixty feet in a straight line; thence up the line of Harrison street to the point of beginning, the same lot being sixty feet wide front and rear; together with all and singular the hereditaments, appurtenances, and privileges, thereto belonging, or in any wise appertaining. To have and to hold the same as above described, with the appurtenances and privileges, to him, the said John McDougall, his heirs and assigns, forever. And I, the said Thomas Wren, for myself, my heirs, executors, and administrators, hereby covenant with the said John McDougall, his heirs, executors, administrators, and assigns, that, excepting the claim of those persons who claim the same by virtue of what is commonly known and called in said Peoria as French claims, that I am well seized of the aforesaid premises as of a good and indefeasible estate, in fee simple; that I have good right and lawful authority to sell and convey the same as aforesaid; that they are free from all encumbrances, and that I will warrant and defend the said premises in the quiet and peaceable possession of the said John McDougall, his heirs and assigns, against the claims of all persons whomsoever, forever.

In witness whereof I have hereunto set my hand and seal, the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and forty-eight, (1848.)

THOMAS WREN. [SEAL.]

STATE OF ILLINOIS,
Peoria county.

Before me, Jacob Gale, clerk of the circuit court of said Peoria county, personally appeared Thomas Wren, who is personally known to me to be the real person whose name is subscribed to the within and foregoing deed, as having executed the same, and acknowledged that he executed the same.

Witness my hand, and the seal of said court at Peoria, this 29th day of September, A. D. 1848.

[SEAL.] JACOB GALE, *Clerk.*

[For map marked O 15, see original, pa. 57.]

Pd. Rec. for the Ft. Pontchartrain Railroad Co.

and county of Peoria, in the State of Illinois, in consideration of the sum of nine hundred dollars to me paid by John McDougall, of the same place, the receipt of which is hereby acknowledged, do grant, bargain, sell, and convey, unto the said John McDougall, his heirs and assigns, the following described lot of land, situate in Bigelow and Underhill's addition to the city of Peoria aforesaid, and known as lot No. one, (1,) in block No. fifty, (50,) bounded as follows, to wit: Beginning at the northeasterly corner of said lot, at the point of the intersection of Water and Harrison streets; thence southerly, down Water street sixty feet, to the line dividing said lot one (1) and two (2;) thence at right angles southeasterly towards the Illinois river to the said river; thence up the line of said river, to the intersection of Harrison street, with said river sixty feet in a straight line; thence up the line of Harrison street to the point of beginning, the same lot being sixty feet wide front and rear; together with all and singular the hereditaments, appurtenances, and privileges, thereto belonging, or in any wise appertaining. To have and to hold the same as above described, with the appurtenances and privileges, to him, the said John McDougall, his heirs and assigns, forever. And I, the said Thomas Wren, for myself, my heirs, executors, and administrators, hereby covenant with the said John McDougall, his heirs, executors, administrators, and assigns, that, excepting the claim of those persons who claim the same by virtue of what is commonly known and called in said Peoria as French claims, that I am well seized of the aforesaid premises as of a good and indefeasible estate, in fee simple; that I have good right and lawful authority to sell and convey the same as aforesaid; that they are free from all encumbrances, and that I will warrant and defend the said premises in the quiet and peaceable possession of the said John McDougall, his heirs and assigns, against the claims of all persons whomsoever, forever.

In witness whereof I have hereunto set my hand and seal, the twenty-eighth day of September, in the year of our Lord one thousand eight hundred and forty-eight, (1848.)

THOMAS WREN. [SEAL.]

STATE OF ILLINOIS,
Peoria county.

Before me, Jacob Gale, clerk of the circuit court of said Peoria county, personally appeared Thomas Wren, who is personally known to me to be the real person whose name is subscribed to the within and foregoing deed, as having executed the same, and acknowledged that he executed the same.

Witness my hand, and the seal of said court at Peoria, this 29th day of September, A. D. 1848.

[SEAL.] JACOB GALE, *Clerk.*

[For map marked O 15, see original, pa. 57.]

The red lines, figures, and words written on the preceding plat have reference to and exhibit the claim of Robert Forsyth to the land in controversy in this suit; and the black lines, figures, and words written in black ink exhibit the same land as laid out by Bigelow and Underhill into town lots; the red dotted lines represent McDougall's, and the black dotted lines Reynolds's and McClure's, claims.

Patent.

United States, to legal representatives of Thomas Forsyth and their heirs, Peoria claim, No. (7,) 16th December, 1845.

(P 16.)

The United States of America, to all to whom these presents shall come, greeting:

Whereas there has been deposited in the General Land Office a certificate numbered sixteen, of the register and receiver of the land office at Edwardsville, Illinois, whereby it appears, that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Thomas Forsyth, under John Baptiste Maillet, and in right of his own occupancy and cultivation, is entered as number seven; and whereas it further appears from the certificate aforesaid that the said John Baptiste Maillet is the inhabitant or settler within the purview of the confirmatory act of Congress, approved March 3d, 1823, entitled "an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and that it has appeared to the satisfaction of the said register and receiver that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, receive a confirmation of claims or donation of any tract of land or village lot from the United States, and that the legal representatives of the said Thomas Forsyth, under the said Maillet, in virtue of the confirmatory act aforesaid, are entitled to a patent for a certain lot described as follows, to wit, the lot containing one hundred and two thousand nine hundred and thirty-three square feet and ninety-three hundredths of a square foot, surveyed and designated as covered by said claim number seven, excluding therefrom the tract or portion of said lot containing twenty-seven thousand four hundred and forty-nine square feet and seven-hundredths of a square foot, covered by claim numbered fourteen, of Jaques Mettee, also under said Maillet; said claim, numbered seven, being situated in the southeast fractional quarter of fractional section nine, in township eight north, of range eight east, of the fourth principal meridian, Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri; and whereas, in the confirmatory act aforesaid of the 3d March, 1823, it is provided, that nothing in this act contained shall be so construed as to affect the right, if any such there be, of any other person or persons to the said lots or any part of them de-

rived from the United States, or any other source whatever, &c.: now, know ye, that in consideration of the premises, and pursuant to the second section of the act aforesaid of the 3d March, 1823, there is granted by the United States to the legal representatives of the said Thomas Forsyth, and to their heirs, subject to the proviso aforesaid, the lot of land above described as covered by the said claim number seven, but expressly excluding therefrom the portion of the said lot covered by claim number fourteen, aforesaid; to have and to hold the said lot of land with the appurtenances, unto the said legal representatives of Thomas Forsyth, and to their heirs and assigns forever, subject to the proviso and exclusion aforesaid.

In testimony whereof I, James K. Polk, President of the United States, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington the sixteenth day of December, in the year of our lord one thousand eight hundred and forty-five, and of the independence of the United States the seventieth.

By the President:

[SEAL.] JAMES K. POLK,
By J. KNOX WALKER,
Secretary.

L. H. LAUGHLIN,
Recorder of the General Land Office.

Affidavit of Robert Forsyth—claim No. 7, Peoria.

(Q 17.)

STATE OF ILLINOIS, *Madison county.*

LAND OFFICE, EDWARDSVILLE.

Personally appeared before the undersigned, J. G. Cameron, receiver of public moneys at Edwardsville, Illinois, Robert Forsyth, of lawful age, and first being duly sworn deposes and says, that he first knew Thomas Forsyth in the village of Peoria, in the State of Illinois, and continued to know him from the year 1808 until the time of said Thomas Forsyth's death; that the said Thomas Forsyth died in the year 1833, and that the said Thomas Forsyth had not, prior to the act of Congress approved 3d March, 1823, entitled "an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," received a confirmation of claims or donation of any tract of land or village lot from the United States, and that the said Thomas Forsyth was an inhabitant or settler on lot No. 7, in the said village of Peoria, within the purview and meaning of the said act of Congress; and further saith not

ROBERT FORSYTH.

Sworn and subscribed before me, this 15th day of August, 1845.
J. G. CAMERON, *Receiver.*

Thomas Forsyth's application for claim No. 7, Peoria.

(R 18.)

To the register of the land office for the district of Edwardsville, in the State of Illinois:

Sir: Please take notice, that under the act of Congress, entitled "an act for the relief of the inhabitants of the village of Peoria, in the State of Illinois," approved the 15th May, 1820, I claim a lot or piece of ground, containing three hundred feet in front by three hundred feet in depth, all French measure, bounded as follows, to the east by Main street, which separates said lot from the river; to the north by a cross street; to the west by the back street; and to the south by a lot belonging to Jaques Mette. I also claim a lot of three hundred feet square, bounded on the north by a cross street; on the west by land unoccupied; to the south by a lot belonging to Jaques Mette, and on the east by back street: the whole of the above is French measure. I also claim twenty arpens of land on the river Cakinnoe (now called Kickapoo) creek, about two miles southwest of Peoria, from having cultivated the same in 1806. I also claim twenty arpens of land in Little Prarie, about two miles west of Peoria, from having cultivated the same in 1807.

THOMAS FORSYTH.

EDWARDSVILLE, *7th September*, 1820.

Evidence of Thomas Forsyth's claim to No. (7,) *Peoria.*

STATE OF ILLINOIS,
Madison county, ss.

Hypolite Maillet and Piere Lavaissieur, dit Chamberline, being duly sworn, depose and say: That Jean Baptiste Maillet improved two lots in the village of Peoria, on the Illinois river; that Hypolite Maillet, one of these deponents, understood from his infancy that he (this deponent) was born in the stockaded fort which stood on the front lot here mentioned; and that he understood likewise that his father, Jean Baptiste Maillet, had improved the same place for a long time; and that this deponent is now forty-two or forty-three years of age. Piere Lavassieur, dit Chamberline, went to live at Peoria in the year 1790, where he found Jean Baptiste Maillet occupying and improving said lots. And further these deponents say, that the said Jean Baptiste Maillet continued to live thereon, and improve the same, till he was killed in the year 1801. That these deponents understood that these lots were purchased by Jean M. Cursolle, from whom these deponents understood (from Coursolle) that Thomas Forsyth had purchased the lots, and that the said Forsyth continued to occupy and improve the said lots till the year 1812, when the inhabitants were expelled from that place by Capt. Craig. The front lot was bounded east by a street separating it from the river Illinois, south by Jaques Mette, north by a cross street, west by a street separating it from a lot in the rear, which

rear lot was bounded north by a cross street, west by unoccupied land, south by Jaques Mette; each containing three hundred feet front by three hundred feet deep, all French measure. That said Forsyth occupied the front lot, on which was his house, stables, out-houses, and garden, and the rear lot as a garden. And further these deponents say not.

his
HYPOLITE x MAILLIET,
mark.
his
PIERRE x LAVAISSIEU, *dit Chamberlain.*
mark.
JAQUES MITTE, *Interpreter.*

Sworn and subscribed before me, this eighth day of September, 1820.
JOHN T. SAWYER, *J. P.*

Witness—EDWARD COLES.

Thomas Forsyth's Detroit claim, No. 618.

(S 19.)

Transcript of the minutes of the proceedings of the land office at Detroit, commencing the 2d day of January and ending 27th of February, 1809, both days inclusive.

Extract No. 1.

On Monday, the 2d day of January, 1809, the board met at nine in the forenoon, pursuant to adjournment; and there being no business, adjourned to Wednesday next at nine in the forenoon.

Extract No. 2.

On Monday, the 20th day of February, 1809, the board met at nine in the forenoon, pursuant to adjournment.

Extract No. 3.

Thomas Forsyth, No. 618. The board took into consideration the claim of Thomas Forsyth to a tract of land situate at Gross Point, and the notice filed by Sol. Sibley, esq., his attorney, the 10th December last, was read in the words and figures following, to wit:

To the register of the United States land office at Detroit.

SIR: Notice is hereby given that Thomas Forsyth makes entry and claim, with the commissioners of the land office at Detroit, to have and to hold, to himself, his heirs, and assigns, a certain farm or tract of land within the district of Detroit, and Territory of Michigan, upon the Lake St. Clair, of six acres in front by one hundred acres in depth, making 600 acres more or less, bounded in front by Lake St. Clair, in rear by vacant lands, on the upper side by other lands or farms of claimant, on the lower side by a tract of land or farm of John Kinsie; sets up title

and claim under deed of conveyance of William Forsyth, his late father, deceased, of the 20th day of December, 1794; likewise sets up title and claim by virtue of long peaceable and continued occupancy, possession, and improvements had, made, and done by himself, and those under whom he claims, and claims title.

For THOMAS FORSYTH,
SOL. SIBLEY,
Attorney and agent.

Dec. 10, 1808.

This tract contains by estimation six hundred acres, it being six acres in front by one hundred in depth, bounded in front by Lake St. Clair, in the rear by unlocated lands, on the upper side by lands of the claimant, and on the lower side by lands of John Kinsie. Whereupon Simon Tax was *was* brought forward as a witness in behalf of the claimant, who being duly sworn, deposed and said: That previous to the 1st July, 1796, William Forsyth cultivated the premises as tenant to the claimant, since which time the claimant has caused the premises to be cultivated, every year, to this day; about 18 or 20 acres are under cultivation. And thereupon it doth appear to the commissioners that the claimant is entitled to the above described tract of land, and that he have a certificate thereof, which certificate shall be number 618; and that he cause the same to be surveyed, and a plat of the survey, with the quantity of land therein contained, to be returned to the register of the land office at Detroit.

Thomas Forsyth's Detroit claim, No. 618—*Thomas Forsyth, No.* 619.

(S 19.)

The board took into consideration the claim of Thomas Forsyth to a tract of land situate at Gross Point, which was entered with the former commissioners of the land office at Detroit, in vol. 1, page 454, under the date of 23d December, 1805. This tract contains by estimation 366⅔ arpens, it being three arpens and two-thirds of an arpent in front, by one hundred arpens in depth, bounded in front by Lake St. Clair, in rear by unlocated lands, above by lands of Robert Forsyth, and below by lands of the claimant.

Whereupon Simon Tax was brought forward as a witness in behalf of the claimant, who being duly sworn, deposed and said: That previous to the 1st July, 1796, Piere Mayette was living on the premises as tenant of the heirs of the late William Forsyth, deceased; that from that time, to four or five years ago, the premises have always been occupied by tenants; and that for three, 4, or 5 years, the premises have remained idle; the said Thomas Forsyth claims by virtue of a deed of partition, recorded with the former commissioners of the land office at Detroit, in vol. 1, page 150. Postponed.

REUBEN ATWATER,
PETER AUDRAIN,
JAMES ABBOTT.

Extract No. 4—Extract No. 4.

Index to claims.

Index to the manuscript of decisions of the commissioners of the land office at Detroit, for January and February, 1809.

Extract No. 6.

Name of the person.	Decisions of commissioners.		Certificate.		Report of former commissioners.
	Date.	Page of transcript.	Date.	Number of acres.	Date of their proceedings therein.
	18 Jan., 1809	–	18 Feb., 1809	–	Vol. 1, page 359, 3d Dec. 1805, rejected.
Thomas Forsyth,	17 Feb., 1809	34	17 Feb., 1809	600 acres	
Robert Forsyth,	17 Feb., 1809	35	17 Feb., 1809	366⅔ do.	1, 449, 23, do. do. do.

Thomas Forsyth's claim 619, *Detroit.*—(S 7.)

Extract No. 7.

Manuscript of the minutes of the proceedings of the commissioners of the land office at Detroit from the 2d day of April to the 29th of June, 1810.

On Monday, the 2d day of June, 1810, the board met at 9 in the forenoon, pursuant to adjournment.

Extract No. 8.—Extract No. 8.

On Friday, the 29th day of June, 1810, the board met at 9 in the forenoon, pursuant to adjournment.

Thomas Forsyth, No. 619, reconsidered. The board reconsidered the claim of Thomas Forsyth, No. 619, to a tract of land situate on Lake St. Clair, which was postponed on the 20th day of February last, in vol. 7, page 35; and, thereupon, it doth appear to the commissioners that the claimant is entitled to the said tract of land, and that he have a certificate thereof, which certificate shall be No. 619; and that he cause the same to be surveyed, and a plat of the survey, with the quantity of land therein contained, to be returned to the register of the land office at Detroit; and then the board adjourned to Monday next, at 9 in the forenoon.

REUBEN ATWATER,
PETER AUDRAIN,
JAMES ABBOTT.

Index to claims.—(S 19.)

Thomas Forsyth, Detroit claim, No. 619.

Index to the transcript of decisions of the commissioners of the land office at Detroit, 1st April to 30th June, 1810. (Index to claims.)

Extract No. 9.

Name of the person.	Decision of commissioners.		Certificate.		Report of former commissioners.
	Date.	Page of transcript.	Date.	Number of acres.	Date of their proceeding thereon.
* * * Thomas Forsyth,	22 April, 1810 29 June, 1810	– 26	22 April, 1810 29 June, 1810	366⅔ acres	

Extract No. 10.

GENERAL LAND OFFICE.

I, Richard M. Youn*d*, commissioner of the General Land Office, do hereby certify, that the foregoing extracts, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, on pages 1 to 6 inclusive, are true extracts from the original transcripts in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of the office to be affixed, at the city of Washington, this thirty-first day of March, 1849.

[SEAL.]

RICHARD M. YOUNG,
Commissioner.

Patent.

United States to Thomas Forsyth, 527$\frac{1}{100}$ acres, on Lake St. Clair, 7th October, A. D. 1811.

(T 20.)

James Madison, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that Thomas Forsyth having lodged in the Treasury a certificate of the register of the land office at Detroit, whereby it appears that the said Thomas Forsyth is confirmed, by virtue of an act of Congress, entitled "an act regulating the grants of land in the Territory of Michigan," in his claim to a certain tract of land containing five hundred twenty-seven and $\frac{1}{100}$ acres, situate on the border of Lake St. Clair, bounded and described as follows, to wit: Beginning at a post standing in the border of Lake St. Clair, between this tract and a tract

confirmed to John Kinsie; thence north sixty-four degrees west, three hundred and two chains fifty-five links, to a post; thence north twenty-six degrees east, seventeen chains fifty links, to a post, the southwest corner of a tract confirmed to the claimant; thence south sixty-four degrees east, three hundred chains forty-five links, to a post standing on the border of Lake St. Clair; thence along the border of said lake, south thirty-one degrees west, seven chains; thence south eleven degrees thirty minutes west, ten chains eighty-eight links, to the place of beginning.

There is granted by the United States unto the said Thomas Forsyth the tract or parcel of land above described. To have and to hold the said tract or parcel of land, with the appurtenances, unto the said Thomas Forsyth, his heirs, and assigns, forever.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand at the city of Washington the seventh day of *of* October, in the year of our Lord one thousand eight hun-
[SEAL.] dred and eleven, and of the independence of the United States of America the thirty-sixth.

By the President.

Secretary of State.

Patent.

James Madison, President, &c., to Thomas Forsyth, $324\frac{35}{100}$ acres, on Lake St. Clair, July 10, 1811.

(U 21.)

James Madison, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that Thomas Forsyth having lodged in the Treasury a certificate of the register of the land office at Detroit, whereby it appears that the said Thomas Forsyth is confirmed, by virtue of an act of Congress entitled "an act regulating the grants of lands in the Territory of Michigan," in his claim to a certain tract of land containing three hundred twenty-four and $\frac{35}{100}$ acres, situate on the border of Lake St. Clair, bounded and described as follows, (to wit:) Beginning at a post standing on the border of Lake St. Clair, between this tract and a tract confirmed to the claimant; thence north sixty-four degrees west, three hundred chains forty-five links, to a post; thence north twenty-six degrees east, ten chains eighty-three links, to a post, the southwest corner of a tract confirmed to Robert Forsyth; thence south sixty-four degrees east, two hundred ninety-eight chains fifty-four links, to a post standing on the border of Lake St. Clair; thence along the border of said lake south sixteen degrees west, eleven chains, to the place of beginning.

There is granted by the United States unto the said Thomas Forsyth the *the* tract or parcel of land above described. To have and hold the

said tract or parcel of land, with the appurtenances, unto the said Thomas Forsyth, his heirs and assigns, forever.

In testimony whereof I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, at the city of Washington, the tenth day of July, in the year of our Lord one thousand eight hundred [SEAL.] and eleven, and of the independence of the United States of America the thirty-sixth.

By the President:

Secretary of State.

Whereupon on filing the aforesaid bill and exhibits, a subpœna in chancery was issued against the said defendant, which is in the words and figures following, to wit:

CIRCUIT COURT OF THE UNITED STATES OF AMERICA,
District of Illinois, ss.

The United States of America, to the marshal of the district of Illinois, greeting:

We command you that you summon Robert Forsyth, if he be found in your district, to be and appear before our judges of our circuit court of the United States, for the district of Illinois, at the rule day thereof, to be holden at Springfield, in the district aforesaid, on the first Monday of July next, to answer unto John Reynolds, Josiah E. McClure, and John McDougall, in a bill in chancery filed in the clerk's office of said court; and have you then and there this writ.

Witness the hon. Roger B. Taney, chief justice of the Supreme Court of the United States of America, at Springfield aforesaid, this 4th day of June, in the year of our Lord one thou- [SEAL.] sand eight hundred and fifty, and of our independence the 74th year. WM. POPE, *Clerk*.

Upon which aforesaid subpœna is the following notice, to wit:

The within named defendant is hereby notified, that unless he be and appear as within commanded, complainant's bill will be taken against his as confessed, and decree entered accordingly.

June 4, 1850. WM. POPE, *Clerk*.

Upon which aforesaid subpœna is endorsed the marshal's return of service, in the words and figures following, to wit:

Served by delivering a copy of the within to the within named Robert Forsyth, defendant, this 4th June, 1850.

BEN. BOND,
U. S. marshal, district Illinois.

This day, to wit, June 4th, A. D. 1850, the following order was made of record: This day came John Reynolds, Josiah E. McClure,

and John McDougall, and filed their bill in chancery against the above named plaintiff, and their motion for an injunction to stay proceedings in the above entitled action of ejectment, which said motion is by order of the court set for hearing on Thursday morning next.

This day, to wit, Thursday, June 6th, A. D. 1850, the following order was made of record:

This day came the parties by their solicitors, and the complainant's motion heretofore entered for an injunction to stay proceedings in an action of ejectment on the common law side of this court, wherein Robert Forsyth, is plaintiff, and Joshua P. Hotchkiss, and James Kelsey are defendants, having been argued, and the court not being sufficiently advised thereof took time to consider.

This day, to wit, June 7th, A. D. 1850, the following order was made of record:

This day this cause came on to be heard, upon the motion herein before entered by the complainants' counsel for an injunction, and the court having heard the arguments of counsel, and being now fully advised in the premises, doth order, adjudge, and decree, that said complainants' motion be sustained, and that said injunction issue as prayed for in the said complainants' bill, upon the said complainants filing with the clerk of this court a bond, with John McClay Smith, Jonathan K. Cooper, and Charles Ballance, as their securities, in the penalty of five thousand dollars, conditioned to pay all reasonable rents and profits, which shall justly accrue to the said plaintiff, in said action of ejectment, in case he shall finally recover in said action, and all such damages as the said Robert Forsyth, plaintiff in said ejectment suit, shall sustain by reason of the wrongful suing out of said injunction in case the same shall be dissolved.

This day, to wit, June 7th, A. D. 1850, the following order was made of record:

On motion of complainants' solicitor, it is ordered that the said complainants have leave to amend their bill without prejudice to the injunction herein before ordered to be issued, and by consent of the defendants' counsel, it is ordered that said amendment may be made without the oath of the complainants.

This day, to wit, June 7th, A. D. 1850, in pursuance of the aforesaid order, the complainants filed their amended bill, which is follows, to wit:

And the said complainants, by way of amendment to their bill in this case, filed by leave of the court, (and by consent of defendants' counsel without oath,) and by order of court without prejudice to the said injunction ordered to be issued in this cause, further state and show to the court, that John Baptiste Maillett, mentioned and referred to in the patent to Tnomas Forsyth's legal representatives, and their heirs, and also in the reported evidence of said Thomas Forsyth's claim, filed with the register of the land office herein before set forth, and marked as exhibit (R 18,) died some time about the year A. D. 1801, and long prior to the passage of the act of Congress of May 15th,

1820, herein before referred to; and that to the best of their knowledge, information, and belief, neither the said John Baptiste Maillett, nor any legal representative of the said John Baptiste Maillett, nor any other person except the said Thomas Forsyth, ever presented to, or made any claim for the said lot number seven, before the officers of the land office at Edwardsville, under the provisions of the *of the* acts above referred to.

And your orators further state, and show to the court, that the only report which was ever made by the officer of the land office at Edwardsville, who took proof of said French claims, under the act of Congress aforesaid, was and is the evidence of said claim, exhibited with their original bill, and marked (R 18.)

And your orators further state and show to the court, that the said French claims in said original bill before referred to, were surveyed by Joseph C. Brown, deputy surveyor of the public lands in the States of Illinois and Missouri, about the 11th day of April, 1837, which survey was approved by the surveyor of the public lands in said States, on the first day of September, 1840, by which survey the said lot number seven, was and is described as stated (in substance) in the plaintiffs' declaration in the ejectment suit in complainants' bill referred to, which said survey purports to have been made under the act of Congress herein before referred to; but whether the same was in fact made in pursuance of said act of Congress, and the proofs returned under said act or acts, your orators cannot state.

N. H. PURPLE,
E. N. POWELL,
For complainants.

This day to wit, June 20th A. D. 1850, the following order was made of record:

It is ordered by consent, that this cause be continued, until the next term at Springfield.

This day to wit, July 3d, A. D. 1850, the following order was made of record:

By consent of parties, it is ordered that the said defendant have until the first day of September next to file his answer to complainants' bill.

This day to wit, August 31st, 1850, in pursuance of the aforesaid order, the defendant filed his answer to complainants' bill, which is as follows, to wit:

The answer of Robert Forsyth to the bill of complaint of John Reynolds, Josiah E. McClure, and John McDougal, complainants.

This respondent, saving and reserving to himself all and all manner of exceptions that can or may be had, or taken, to the many errors, uncertainties, and imperfections in said bill contained, for answer thereto, or unto so much or such parts thereof as this respondent is advised by counsel is or are material for him to make answer unto, answering, says as follows:

To the first interrogatory in said bill contained this respondent says: That about one or two years since he heard that said complainants were in actual possession and occupancy of the premises claimed by them respectively; and he further says that he also understood that at the time of the commencement of the action of ejectment, in said bill referred to, one James Kelsey was in possession and occupancy of a portion of said premises as tenant of Joshua P. Hotchkiss, all which respondent is informed and believes to be true; but what portion was occupied by said Kelsey, or when he entered into the said possession, or when said complainants, or those under whom they severally claim, entered into the possession of said premises, this respondent cannot state further than as above. Respondent further admits, that said McDougal has erected a warehouse on the premises claimed by him, and said Reynolds and McClure on the premises claimed by them, which were made since the said action of ejectment was commenced, as respondent is informed and verily believes, and which said warehouses are not, as respondent believes, on the premises claimed as the property of respondent, as hereinafter stated, but in front thereof, and in a public street or easement, which is appendant to said lot numbered seven, claimed by respondent, and referred to in said bill; but the value of such warehouses, respondent cannot state with any certainty, but supposes their value may be correctly stated in said bill, and said warehouses constitute all, or nearly all, of the improvements mentioned in said bill. Respondent further states that the plot hereto annexed, or to be annexed, marked A, and which is made part hereof, shows the situation of said lot No. seven, claimed by respondent, and the said street, and said warehouses.

In answer to the second interrogatory respondent says:

That he admits that on the ——— day of ——— A. D. 1848, he caused to be instituted an act of ejectment, in the circuit court of the United States, in said district of Illinois, against James Kelsey and Joshua P. Hotchkiss, supposing them, or rather said Kelsey, under said Hotchkiss, then to be in possession of a portion of the premises claimed in said bill by said Reynolds and McClure; and at the June term of said court, A. D. 1849, a trial was had of said action, as respondent is informed and believes, and respondent recovered judgment for the possession of that portion occupied by said Kelsey, and a new trial granted to said defendants, as by the record of the proceedings in said cause will more fully and at large appear, and which are hereby referred to for greater certainty; and respondent further admits, that the same is now pending, and he is now prosecuting the same.

In answer to the third interrogatory respondent says:

That it is true as alleged in said bill that the said claim of this respondent, and on which he commenced said suit, covers a large and valuable portion of the lots claimed in said bill by said complainants, and the extent thereof is correctly stated on said plot herewith filed and above referred to, marked "A;" as to the title from said John L. Bogardus to said complainants, respondent has no knowledge or infor-

mation, except by the allegations in said bill, and can neither admit or deny the same, and calls for proof.

In answer to said fourth interrogatory respondent says:

He believes it to be true, that said Hotchkiss did claim title to that portion of said lot No. seven, (7,) for which a judgment was recovered in June, 1849, as aforesaid, under the said patent to John L. Bogardus, but under what mesne conveyances this respondent is not informed, and not adversely to complainant.

In answer to the said fifth interrogatory this respondent says: That he claims title to land covered by said lot No. seven, as follows:

By the settlement and occupation thereof by Jean Baptiste Maillet, previous to the year 1790, and from that year down to 1801, and a sale of such possession and occupancy to John M. Coursall, and from him to Thomas Forsyth, and his occupancy and possession of said lot under such purchases from about the year 1802 to 1812.

2nd. The act of Congress of the United States, approved 15th May, 1820, entitled an act for the relief of the inhabitants of the village of Peoria, in the State of Illinois.

3d. The report of Edward Coles, register of the land office at Edwardsville, in the State of Illinois, dated Nov. 10, 1820, to Secretary of War of the United States, made in pursuance of the act of Congress aforesaid, a copy of which, so far as relates to said lot, is hereby referred to and made part hereof.

4th. The act of Congress of the United States, approved 3d March, 1823, entitled an act to confirm certain claims to lots in the village of Peoria, and State of Illinois.

5th. A survey of the village of Peoria, under the second section of the said last mentioned act, approved September 1st, 1840, by the surveyor of public lands in the Stats of Illinois and Missouri, and a separate plat of the survey of said lot No. seven, copies of which will be hereto attached, marked "B," "C," and made part hereof.

6th. The patent of the United States to Thomas Forsyth, a copy of which is attached to said bill, and marked "P" 16, also made part hereof.

7th. Said Thomas Forsyth became deceased in Missouri, in the year 1833, testate, having first by will devised said land, under the residuary clause in said will, to his daughter, Mary Forsyth, afterwards wife of Anthony R. Bouis; a copy of which will is marked "D," and hereto attached, and made part hereof.

8th. Said Thomas Forsyth, at the time of his decease, left respondent, one Thomas Forsyth, jr., and said Mary, his only surviving children and heirs-at-law; and said Mary died intestate, and without issue, in the year 1838, leaving respondent and said Thomas Forsyth, jr., her heirs-at-law, and entitled to said estate.

9th. Said Thomas Forsyth, by his deed of conveyance dated 18th March, 1839, sold and conveyed to respondent his, said Thomas Forsyth's, interest in said land *to respondent*, by means of which respondent became the sole owner of said lot No. seven, (7;) a copy of which last

named deed is hereto attached, marked "E," and the original made part hereof.

In answer to the sixth interrogatory this respondent says: He has fully answered in his answer to the fifth interrogatory, and therein set forth and exhibited all the title papers in his possession. And respondent further states, that the said deed of conveyance from said Jean Baptiste Maillet to Coursol, and from Coursol to Thomas Forsyth as aforesaid, are not in the possession of respondent; if any such were executed, they are lost or mislaid. And respondent further states, that, as the inhabitants of said village at that time were not the owners of the lots occupied by them, and had only a bare possession thereof, the said interest was a chattel interest, as respondent is advised and believes, and transferable by delivery of possession, and such was, in many instances, the custom among the inhabitants of said village prior to 1812, and at the time said conveyances were made; and whether they were made in writing or not this respondent cannot state, having no knowledge or information on the subject. And respondent further states, that he is informed, and verily believes, that said Thomas Forsyth, named in said patent, was the father of respondent, and that he possessed said lot under the settlement made by Jean Baptiste Maillet, and from the time of his said purchase occupied the same as the assignee and legal representative of said Maillet. Respondent further answering states, that he was born on said lot No. seven, (7,) in the year 1808, and continued to reside there until the year 1812, till the inhabitants of said village were driven therefrom.

In answer to the 7th interrogatory this respondent answering says: That he made an affidavit for the purpose of obtaining said patent, which was true, to the best of respondent's knowledge and belief, which respondent understood, from the register of the land office at Edwardsville, was required before a patent certificate could be *insured* by him, but which respondent does not conceive was required by any law, nor of right required by said office.

In answer to said eighth interrogatory respondent answering says: He did make oath to an affidavit before the register of said land office, but whether it is correctly copied in said exhibit respondent does not know, but supposes it is. The oath administered to this respondent was, that the affidavit was true, to the best of respondent's knowledge, information, and belief.

In answer to said ninth interrogatory respondent answering says: That he has been informed, and verily believes, that said Thomas Forsyth did make application for and proof of his right to said claim No. 7, but in what manner respondent is not informed, further than as above stated.

In answer to the tenth interrogatory respondent answering says: That he knows nothing of the said donations, confirmations, and patents in said bill mentioned, as Nos. 618, 619, in the Detroit district, to Thomas Forsyth, and stated in said exhibits attached to said bill marked (S 19,) except from said documents, and cannot state whether he is

the same person or not to whose legal representatives said lot No. seven (7) was granted; but, from the best information he has on the subject, he believes he was not; for the father of respondent resided in Peoria from 1802 to 1812, and there were several Thomas Forsyths at or in the vicinity of Detroit, but still he may have been the same person.

In answer to the eleventh interrogatory respondent answering says: That at the time he filed the said affidavit with the register of the land office at Edwardsville, he did not know or believe, or have good reason to believe, that the said Thomas Forsyth, the father of respondent, had received the said confirmations, grants, or donations, in the Detroit district aforesaid, or one of them; nor had respondent ever heard that such was the fact; nor did he ever hear any such thing alleged, or suspected, until about one year since. This respondent further answering denies that, to the best of his knowledge, information, and belief, said complainants have any title whatever to said lots or premises claimed by them, or either of them, in said bill, although he admits that a patent was issued by the Government of the United States to John L. Bogardus, as alleged in said bill, but, as respondent believes, the same was procured by fraud, and conveyed no title. That some time previous to 1833, the precise time respondent does not know, said John L. Bogardus entered into possession of a certain portion of said quarter section, under a lease from one Jacques Mette, who claimed lot No. 14, on said plat marked (O 15,) and to whom a patent was duly issued, dated March 4, A. D. 1847, by the United States, under said act of Congress of 3d March, 1823, which patent will be exhibited on the hearing of this cause; and that said Bogardus settled upon said lot No. 14 as such tenant, and not in his own right; and, by virtue of such settlement, said John L. Bogardus did, on the 4th day of August, A. D. 1832, file in the land office at Quincy, in the State of Illinois, proof of his claim of right to a pre-emption upon said quarter section; a copy of which proof will be filed, marked "O," and the same made part hereof. And that, on the 15th day of November, A. D. 1837, said John L. Bogardus was permitted to enter said quarter section, under, and by virtue of, his said pretended right of pre-emption thereto, and a certificate of such entry was issued by said receiver of said land office under such entry; a copy of which is hereto attached, marked "P," and the same made part hereof, and said patent to said Bogardus was issued upon, and in pursuance of, said entry. And respondent avers that, as he is informed by counsel, and verily believes, said settlement of said Bogardus was not in his own right, nor upon the public lands of the United States, upon which a pre-emption could take effect, and the said entry and patent are absolutely void.

This respondent further answering, not only as aforesaid, denies that complainants have any title to said premises claimed by them, but insists that they had notice of said rights of said Mette, and that said pre-emption of said Bogardus was void.

And respondent further insists, that so far as he can learn, or is informed, or believes, if it should prove that the father of respondent received said pretended confirmations, &c., as No. 618 and 619, that

would not defeat the right of this respondent under said patent to Thomas Forsyth; and that nothing in the said act of Congress of 3d March, 1823, precludes the said Thomas Forsyth from holding said lot under the said settlement of said Maillet, as the said grant is in virtue of the settlement of said Maillet, and the subsequent occupation by said Thomas Forsyth, in right of said Maillet's settlement; and as respondent is advised by counsel, and verily believes, said Thomas Forsyth was a purchaser and legal representative of said Jean Baptiste Maillet, and entitled to said lot as such. Respondent further states, that, as he is advised and believes, the occupation of said Thomas Forsyth is evidence of a grant of said Maillet. Respondent further demurs to said bill, and shows for cause of demurrer, that the relief sought by said bill could be given in the said action at law, and this court, from the showing of the bill, has no jurisdiction in the premises, and the facts stated do not show a ground of relief in manner and form as claimed in and by said bill, as respondent is advised by counsel and verily believes. And respondent prays that he may have the same benefit of this his defence to said bill as if he had not answered thereto.

And now having fully answered, he prays to be hence dismissed with his costs and charges, &c.

ROBERT FORSYTH,
H. O. MERRIMAN,
Sol. for defendant.

UNITED STATES OF AMERICA,
State and district of Missouri.

Robert Forsyth, being first duly sworn, deposes and says, that the matters and things stated and set forth in the foregoing answer, by him subscribed, are true; so far as therein stated to be upon the information of others, he is informed and believes to be true.

ROBERT FORSYTH.

Subscribed and sworn to this 23d day of August A. D. 1850, before me, as clerk of the circuit court of the United States, within [SEAL.] and for the district of Missouri. In witness whereof I hereunto affix my name with the seal of said court, at office, in city of St. Louis, this 23d day of August, 1850.

BEN. F. HICKMAN, *Clerk.*

In the name of God, amen. I, Thomas Forsyth, of St. Louis county, in the State of Missouri, being in full health and vigor of mind, do make this my last will and testament: First, I devise and bequeath to my son, Robert Forsyth, in fee simple, my farm in St. Louis county, on which I reside, being the same purchased by me from the heirs of Papin, and containing four hundred arpens, together with all the cattle, implements of husbandry, and kitchen furniture, and one bed, and all the tables and chairs; also a black man, slave, aged about thirty years, named Frederick, and his wife; a black woman, of about the same age, named Phillis, and her three children, named Sarah, Ke-

siah, and George; together with all the children that may hereafter be born of the said Phillis. Second, to my son Thomas I devise and bequeath, in fee, my lot of ground in the city of St. Louis, being the same bought by me of Philipson and Labbadie, situate on Church street, on the east side thereof, in the upper part of the town; also a black boy, named Lewis, aged about twenty-one years. Third, to my daughter Mary, I devise and bequeath, in fee simple, my lot of ground in said city of St. Louis, situate in the upper part of town, on the west side of Main street, being the same purchased by me from William C. Carr and wife, on which is a small tenement; also a yellow boy, named Jim, aged about ten years; also all my silver plate, my desk, book case, beds and bedding, with the exception of the bed above given, and all moneys that I may die possessed of, or that may be then due to me. And whereas my said son Thomas is now in Mexico, and is liable to casualties, it is my will that, in case of his death before me, that all his portion, above bequeathed to him, shall go to my said daughter Mary; and I hereby devise and bequeath the same to her on such contingency. And it is further my will, that, even in case he should outlive me, but die without leaving lawful heirs of his body, that then his portion above shall go to my said daughter Mary in fee simple; and I do devise and bequeath it accordingly. And I further will and declare, that all the residue of my property, whether real, personal, or mixed, which I now own, or may die possessing or owning, comprehending debts and all effects, (with the exception of a little black boy, named Bill, about seven years old,) I devise and bequeath to my said daughter Mary; and the said black boy Bill I give and bequeath to my grandson William, the son of my son Robert. I hereby nominate and appoint Edward Bates, esq., attorney at law, St. Louis, and Robert Allen Forsyth, paymaster of United States army of Detroit, in Michigan Territory, executors of this my last will and testament; and it is my will and pleasure, that if either of them decline acting, then such person shall act as executor in his stead as shall be nominated by the one declining to act. I hereby nominate, as guardians of my daughter Mary till she arrives at the age of twenty-one years, the said Edward Bates and Robert Allen Forsyth, or such person or persons as said Bates and Robert Allen Forsyth appoint for that purpose. I hereby revoke all other and former wills made by me.

In testimony whereof I have hereto set my hand and seal, this eleventh day of September, in the year of our Lord one thousand eight hundred and thirty-three. THOMAS FORSYTH. [SEAL.]

The above and foregoing instrument was on this eleventh day of September, 1833, signed, sealed, published, and declared, as his last will and testament, by Thomas Forsyth, in our presence, who, in his presence and in the presence of each other, and at his request, subscribed our names hereto as witnesses.

WILSON P. HUNT,
ISRAEL CAMFIELD, JR.,
F. PROVENCHERE.

STATE OF MISSOURI,
County of St. Louis, ss.

Be it remembered, that on this first day of November, in the year of our Lord eighteen hundred and thirty-three, before me, the clerk of the county court within and for the county aforesaid, personally appeared Wilson P. Hunt and Ferdinand Provenchere, two of the subscribing witnesses to the foregoing and annexed instrument of writing, who, being duly sworn upon their oaths, according to law, severally depose and say, that they were present and did see Thomas Forsyth sign and execute the same, and heard him publish, pronounce, and declare the same to be his last will and testament; and that at the time of so doing he, the said testator, was of sound and disposing mind, to the best of their knowledge, observation, and belief; and that they, the said deponents and Israel Camfield, the other subscribing witness to the same, subscribed their names thereto, in the presence and at the request of the testator, and in the presence of each other as witnesses to the same.

In testimony whereof I have hereunto set my hand and the seal of said court, at the city of St. Louis, this first day of No-
[SEAL.] vember, in the year of our Lord eighteen hundred and thirty-three.

HENRY CHOUTEAU, *Clerk.*

Recorded 1st November, 1833.

HENRY CHOUTEAU, *Clerk.*

STATE OF MISSOURI,
County of St. Louis, ss.

I, William F. Ferguson, clerk of the probate court of the county of said St. Louis, in the State of Missouri, which is a court of record, having a seal, certify, that the foregoing is a true copy of the will of Thomas Forsyth, deceased, and of the probate thereof, as the same now remains of record in my office.

In testimony whereof I hereto set my hand and affix the seal of the probate court of the county of Saint Louis, at office in said
[SEAL.] county this nineteenth day of May, in the year of our Lord one thousand eight hundred and forty-nine.

WILLIAM F. FERGUSON, *Clerk.*

I, Peter Ferguson, sole and presiding judge of the probate court of the county of Saint Louis, in the State of Missouri, which is a court of record, having a seal, certify, that William F. Ferguson, whose name is subscribed to the preceding certificate, was at the time of his signing the same, and now is, clerk of said probate court, duly appointed and qualified, and acting in that capacity, and that his certificate is [in] due form, and is entitled to full faith and credit.

In testimony whereof I hereto set my hand, at the county aforesaid,

this nineteenth day of May, in the year of our Lord one thousand eight hundred and forty-nine. PETER FERGUSON,
Judge St. Louis probate court.

STATE OF MISSOURI,
County of Saint Louis, ss.

I, William F. Ferguson, clerk of the probate court of the county of Saint Louis, in the State of Missouri, certify, that Peter Ferguson, whose name is subscribed to the preceding certificate, was at the time of his signing the same, and now is, sole and presiding judge of the probate court of the county of Saint Louis aforesaid, duly commissioned and qualified.

In testimony whereof I hereto set my hand and affix the seal of the probate court of the county of Saint Louis, at office in said [SEAL.] county, this nineteenth day of May, in the year of our Lord one thousand eight hundred and forty-nine.

WILLIAM F. FERGUSON, *Clerk.*

Exhibit E.

Know all men by these presents that I, Thomas Forsyth, of St. Louis, Missouri, for and in consideration of the sum of six thousand dollars, to me in hand paid by Robert Forsyth, of St. Louis county, the receipt of which is hereby acknowledged, do hereby grant, sell, alien, enfeoff, and confirm unto said Robert all my right, title, and interest in a negro slave, named Lewis, and a mulatto slave, named Jim, lately the property of my sister, Mary Bouis; also in all the personal property belonging to her; which slaves and personal property were, in her lifetime, held in trust for her by said Robert; also all my right and interest in the real and personal property to which my sister was lately in any way entitled as heir of Thomas Forsyth; also all my right, title, and interest in any property, real, personal, or mixed, which belongs to me as heir of my said late sister, wheresoever the same may be; and in particular all my right and estate, being the undivided half in and to certain lots and real estate at Peoria, in Illinois, belonging to my said late sister in her lifetime, under and in virtue of the will of the said Thomas Forsyth, deceased.

To have and to hold the same unto the said Robert Forsyth, his heirs, executors, administrators, and assigns, forever.

In witness whereof I have hereto set my hand and seal, this eighteenth day of March, eighteen hundred and thirty-nine.

THOMAS FORSYTH. [SEAL.]

Signed, sealed, and delivered in presence of—
CHS. CABONNE.

STATE OF MISSOURI,
County of St. Louis.

Be it enacted, that on this twenty-sixth day of March, in the year

of our Lord one thousand eight hundred and thirty-nine, before me, Mary Philip Leduc, one of the justices of the county court within and for the county aforesaid, came Charles Cabanne, who is personally known to me to be the person whose name is subscribed to the foregoing instrument of writing as a subscribing witness, and made oath that Thomas Forsyth, whose name is subscribed to the said instrument of writing as grantor, is the real person who executed the same; that the said Thomas Forsyth subscribed, sealed, and delivered the same in his presence, and acknowledged the same to be his act and deed for the purposes therein mentioned; and that he, the said Charles Cabanne, subscribed the said deed as a witness in the presence and at the request of the said Thomas Forsyth.

CHS. CABANNE.

Taken and certified the day and year aforesaid.

M. P. LEDUC,
Justice, county court, St. Louis county.

STATE OF MISSOURI,
County of St. Louis, ss.

I, Henry Chouteau, clerk of the county court, and ex officio recorder for the county aforesaid, certify, that Mary Philip Leduc, before whom the foregoing acknowledgment was made, and whose name is subscribed thereto, was, on twenty-sixth day of March, eighteen hundred and thirty-nine, a justice of the county court of St. Louis county aforesaid, duly commissioned and qualified, and that full faith and credit are due to his acts as such.

In testimony whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at office, in the city of St. Louis, this 12th day of June, A. D. eighteen hundred and forty-one.

HENRY CHOUTEAU, *Clerk.*

STATE OF ILLINOIS,
County of Peoria.

RECORDER'S OFFICE, PEORIA, *June 15th*, 1841.

I, Charles Kettelle, recorder of said county of Peoria, do certify, the foregoing deed and certificate of proof are duly recorded in said office in book "M," pages 56 and 57.

Given under my hand and private seal, (no official being provided,) this 16th day of June, A. D. 1841.

CHARLES KETTELLE, *R. P. Co.* [SEAL.]

Exhibit P.

No. 13,258. LAND OFFICE AT QUINCY, ILL., *15th November*, 1837.

It is hereby certified, that, in pursuance of law, John L. Bogardus,

New-York county, State of New York, on this day purchased of the register of this office the lot on southeast fractional quarter of section No. nine, in township No. 8 north, of range No. 8 east, containing twenty-three $\frac{93}{100}$ acres, at the rate of one dollar and 25 cents per acre, amounting to twenty-nine dollars and 91¼ cents, for which the said John L. Bogardus has made payment in full, as required by law. Now, therefore, be it known, that on the presentation of this certificate to the Commissioner of the General Land Office, the said John L. Bogardus shall be entitled to receive a patent for the lot above described; subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

SAM'L LEECH, *Register.*

Issued by order of the *court* of the General Land Office, dated 4th September, 1837.

SAMUEL LEECH, *Register.*

Patent dated 5th January, 1838; recorded vol. 1, p. 149.

Exhibit "O."

LAND OFFICE, QUINCY,
January 4th, 1833,

I hereby certify, that on the fourth day of August, 1832, John L. Bogardus, of Peoria, in the State of Illinois, filed in this office evidence of his rights of pre-emption to the southeast fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, under the act of Congress of April 5, 1832.

SAML. ALEXANDER, *Register.*

I do solemnly swear that I am an actual settler and housekeeper on a tract of public land, viz., the southeast quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, in the State of Illinois, which said tract or quarter section contains about twelve acres, and I hereby apply to enter the same for pre-emption under the provisions of the act of Congress, approved the 5th of April, 1832, entitled an act supplementary to the several laws for the sale of public lands, which will include my improvements.

STATE OF ILLINOIS,
County of Peoria, ss.

July 24th, 1832.

Sworn to before me, ISAAC WATERS,
Clerk pro tem., circuit court.

I, Augustus Langworthy, of Peoria, in the State of Illinois, testify

and say, that I am well acquainted with the situation of the several lots of land bordering on the Illinois river, in township eight north, range eight east, of the fourth principal meridian, and that the lot upon which John L. Bogardus has made various improvements, by the erection of buildings, enclosing and cultivating a part of the lot, and by the establishment of a ferry adjoining it, over the Illinois river, is the southeast fractional quarter of section nine, in said township. I further testify, that I have been a resident in said township for six or seven years past, and that during that period the said Bogardus has occupied and improved said lot. I further say, that I am in no way interested in the same. AUGUSTUS LANGWORTHY.

STATE OF ILLINOIS,
County of Peoria, ss.

August 15th, 1832.

Augustus Langworthy, above named, who is personally known to me, made oath to the truth of the foregoing affidavit by him subscribed, before me, ISAAC WATERS, [L. S.]
Clerk pro tem., circuit court, said county.

I, Isaac Waters, of Peoria, in the State of Illinois, testify and say, that I removed to the county of Peoria seven or eight years ago, and have known said John L. Bogardus, of Peoria, ever since; when I first removed here, the said Bogardus had established a ferry over the Illinois river, at the outlet of Lake Peoria, and has since erected sundry buildings on the west side of the river, on the lot of land on which the ferry landing is located; he has also enclosed and cultivated a part of said lot, and has hitherto kept up and maintained said ferry, and occupied and improved said lot and buildings by himself and tenants. I further testify, that, in my opinion, the said ferry is of great public utility and necessity. I further say, that I have no interest in the subject matter of this affidavit.

ISAAC WATERS.

STATE OF ILLINOIS,
Peoria county, ss.

July 30, 1832.

Then the above named Isaac Waters, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by him subscribed, before me,

A. WREN, *J. P.*

I, Stephen Carel, of the county of Peoria, in the State of Illinois, testify and say, that I came to the Illinois river about eleven years ago, and have lived at and near Peoria, on said river, ever since, except about two years, that I resided at Galena; when I first came to this county John L. Bogardus, of said Peoria, lived with his family on the

west bank of the Illinois river, near where the ferry now is; about three years afterwards he established a ferry which is situated at the outlet of Lake Peoria, and from time to time erected sundry houses and buildings on the west side of the river, upon the lot upon which the ferry landing is established; and also enclosed and cultivated a part of the lot. I further testify and say, that the said Bogardus has ever since kept up and maintained said ferry, and occupied and improved said lot and buildings by himself and tenant. I further say, that I have no interest in the subject matter of this affidavit.

his
STEPHEN ✕ CAREL.
mark.

STATE OF ILLINOIS,
County of Peoria, ss.

July 27, 1832.

Then Stephen Carel, above named, who is personally known to me, appeared and made oath to the foregoing affidavit by him subscribed is true, before me,

ISAAC WATERS,
Clerk pro tem., circuit court, said county.

I, William Wait, testify and say, that seven years ago last autumn I came to this county, and crossed the Illinois river in the ferry established by John L. Bogardus at the outlet of Lake Peoria; at that time there was a bank on the west bank of the river near the ferry, on which Stephen French then lived as tenant of Mr. Bogardus, and tended said ferry. Since that time Mr. Bogardus has erected sundry other buildings on the same lot or tract of land, and enclosed and cultivated a part of the same.

I further certify, that said lot is understood to be public land, and a fractional quarter of section nine, in township eight north, in range eight east, of the fourth principal meridian; and that ever since my first acquaintance with the said Bogardus he has occupied and improved said land and buildings by himself or his tenants, and kept up and maintained said ferry.

I further testify that about two years ago a log cabin, two stories high, was erected by Mr. Bogardus, as I understood, on the east bank of the river at the ferry landing, for the convenience and accommodation of travellers and passengers.

I further say, that I have no interest in the subject-matter of this affidavit.

W. M. WRIGHT.

STATE OF ILLINOIS,
County of Peoria, ss.

July 24, 1832.

Then William Wright, above named, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by him subscribed, before me,

ISAAC WATERS,
Clerk pro tem , circuit court.

2096.
57

Certificate No. 16.

LAND OFFICE, EDWARDSVILLE, ILLINOIS,
August 15th, 1845.

It is hereby certified, that in the report dated 10th November, 1820, of Edward Coles, register of the land office at Edwardsville, Illinois, the claim of Thomas Forsyth, under John Baptist Maillet, and in right of his own occupancy and cultivation, is entered as No. 7, and the said Maillet being the inhabitant or settler within the purview of the confirmatory act of Congress, approved 3d March, 1823, entitled "an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," and it appearing to the satisfaction of the undersigned that the said inhabitant or settler did not, prior to the said act of 3d March, 1823, to receive a confirmation of claims or donation of any tract of land or village lot from the United States; therefore, be it known, that the legal representatives of the said Thomas Forsyth, (now deceased,) under said Maillet, in virtue of the confirmatory act aforesaid, are entitled to a patent for the land described as follows: The lot containing $102{,}933\frac{93}{100}$ square feet, designated as claim No. 7, excluding therefrom the tract or portion of said lot containing $27{,}449\frac{7}{100}$, covered by claim No. 14, of Jacques Mette, also under said Maillet, situated in the southeast fractional quarter section 9, in township 8 north, of range 8 east, of the 4th principal meridian, in Illinois, according to the survey approved 1st September, 1840, by the surveyor of the public lands in the States of Illinois and Missouri, and also described in the survey aforesaid by metes, and bounded as follows, viz: Commence at a post at the intersection of the southwest edge of the cross street (B) with the northwest edge of First street, which post is the east corner of this lot; thence with the northwest edge of First street, south $43\frac{1}{2}$ west, 40 feet [to] a post and stone set by it, 235 feet 3 inches and one-third of an inch, to a post the east corner of the survey of claim 14,320 feet 10 inches, the south corner of this lot and of the survey of claim No. 14, and the east corner of lot No. 2; thence north $46\frac{1}{2}$ west, 320 feet 10 inches, to a post in the southeast edge of Second street, the west corner of this lot and of the survey of claim No. 14, and north corner of lot No. 2; thence with the southeast edge of Second street north $43\frac{1}{2}$ east, 85 feet 6 inches and $\frac{2}{3}$ of an inch, to a post the north corner of the survey of claim No. 14, 320 feet 10 inches to a post at the intersection of the southeast edge of Second street with the southwest edge of the cross street, (B,) which post is the north corner of this lot; thence with the southwest edge of the cross street (B) south $46\frac{1}{2}$ east, 320 feet 10 inches, to the place of beginning.

This lot, as surveyed and here described, contains 102,933 square feet and $\frac{93}{100}$ of a square foot, and includes the survey of the claim No. 14, confirmed to Jacques Mette as represented on the plat.

JACOB JUDY, *Register.*
J. G. CAMERON, *Receiver.*

GENERAL LAND OFFICE.

I, Justin Butterfield, commissioner of the General Land Office, do hereby certify, that the foregoing, on pages 1 and 2, is a true copy of the original on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Wash- [L. S.] ington, this thirtieth day of November, 1849.

J. BUTTERFIELD,
Commissioner.

[*Certificate register land office, Edwardsville.*]

To the register of the land office, for the district of Edwardsville, in the State of Illinois.

SIR: Please take notice, that under the act of Congress entitled "an act for the relief of the inhabitants of the village of Peoria, in the State of Illinois," approved the 15th May, 1820, I claim a lot or piece of ground containing three hundred feet in front, by three hundred feet in depth, all French measure, bounded as follows: To the east by Main street, which separates said lot from the river; to the north by a cross street, to the west by the back street, and to [the] south by a lot belonging to Jacques Mette. I also claim a lot of three hundred feet square; bounded on the north by a cross street, on the west by land unoccupied, to the south by a lot belonging to Jacques Mette, and on the east by the back street. The whole of the above is French measure. I also claim twenty arpens of land on the river Cakinnoe, now called Kickapoo creek, about two miles SW. of Peoria from having cultivated the same in 1806. I also claim twenty arpens of land in Little Prairie, about two miles west of Peoria, from having cultivated the same in 1807.

THOMAS FORSYTH.

EDWARDSVILLE, *7th September*, 1820.

STATE OF ILLINOIS,
Madison county, ss.

Hypolite Mailliet and Pierre Lavaissieur, dit Chamberlain, being duly sworn, depose and say, that Jean Baptist Mailliet improved two lots in the village of Peoria, on the Illinois river. That Hypolite Maillet, one of the deponents, understood from his infancy that he, this deponent, was born in the stockade fort which stood on the front lot here mentioned; and that he understood, likewise, that his father, Jean Baptist Maillet, had improved the same place for a long time, and that this deponent is now forty-two or forty-three years of age. Pierre Lavissieur, dit Chamberlain, went to live at Peoria in the year 1790, when he found Jean Baptist Maillet occupying and improving the said lots. And further these deponents say, that the said Jean Baptist Maillet

continued to live thereon and improve the same till he was killed in the year 1801. That these deponents understood that these lots were purchased by Jean M. Coursolle, from whom these deponents understood (from Coursolle) that Thomas Forsyth had purchased the lots, and that the said Forsyth continued to occupy and improve the said lots till the year 1812, when the inhabitants were expelled from that place by Capt. Craig. The front lot was bounded east by a street separating it from the river Illinois, south by Jacques Mette, north by a cross street, west by a street separating it from a lot in the rear, which rear lot was bounded north by a cross street, west by unoccupied land, south by Jacques Mette, each containing three hundred feet front by three hundred feet deep, all French measure. That said Forsyth occupied the front lot, on which was his house, stables, out-houses, and garden, and the rear lot as a garden. And further these deponents sayeth not.

his
HYPOLITE x MAILLET,
mark.

his
PIERRE x LAVISSIEUR, *dit Chamberlain.*
mark.

JACQUES METTE, *Interpreter.*

Sworn and subscribed before me, this eighth day of September, 1820.
JOHN Y. SAWYER, *J. P.*

Witness—EDWARD COLES.

No. 7. Thomas Forsyth claims a lot of three hundred feet in front, by three hundred feet in depth, French measure, in the village of Peoria, bounded eastwardly by a street separating it from the Illinois river, northwardly by a cross street, westwardly by a back street, and southwardly by a lot claimed by Jacques Mette.

Proof.

Hypolite Maillet testifies on oath that he is now about forty-two or forty-three years of age, and that he has always understood he had been born in a stockade fort, which stood on the above described lot, in the now village of Peoria, and that his father, John Baptist Maillet, had lived on the said lot for a long time; and Pierre Lavissieur, dit Chamberlain, in like manner testifies, that when he first went to live in Peoria, in the year 1790, he found John Baptist Maillet occupying and cultivating the above described lot; and further, both Maillet and Chamberlain testify that the said John Baptist Maillet continued to live on and cultivate the said lot till he was killed in the year 1801, after which they understood the said lot was sold to one John M. Coursoll, by whom it was sold to the above named Thomas Forsyth, who continued to occupy and cultivate the said lot until the year 1812, when the inhabitants were expelled from Peoria by Capt. Craig, of the Illinois militia.

(A.)

Plat of the new village of Peoria, and of such of the out lots and field lots in the neighborhood thereof, as are connected with said new village, in one continuous survey; and description of the out boundaries of the said town, and continued connexion of out lots and field lots situate in sections 9 and 16, township 7, north of the base line, range 8 east, of the 4th principal meridian.

[For plat see original.]

Description.

Begin at the upper end of the southeastern edge of First street, on the northwest bank of lake Peoria; thence N. 46° W. one hundred feet to the eastern corner of unclaimed lot A, 420 feet 10 inches, the north corner of said unreclaimed lot A, at the northeast edge of Second street, 486 feet 10 inches to the N. E. end of the N. W. edge of Second street; thence S. 43½° W. with the N. W. edge of Second street, 256 feet 8 inches to the intersection with the N. E. edge of street A; thence N. 46½° W. with the N. E. edge of street A, 320 feet 10 inches to the N. W. end of the N. E. edge of said street A; thence S. 43½° W., 66 feet the north corner of lot No. 66, at the N. W. end of the S. W. edge of said street A; 108 feet 9⅓ inches the west corner of lot No. 66, and north corner of unclaimed lot C; 322 feet 8 inches the west corner of unclaimed lot C, and the north corner of lot No. 12; 408 feet ⅔ inches the west corner of lot No. 12, and the N. W. end of the N. E. edge of street B; 474 feet 2⅔ inches the N. W. end of the S. W. edge of street B, and the north corner of lot No. 8; 709 feet 6 inches the north corner of lot No. 15, 795 feet and ⅔ of an inch to the west corner of lot No. 8, (of lot No. 8, 709 feet,) which is also the west corner of lot No. 15, and east corner of lot No. 61, and north corner of lot No. 28; thence N. 46½° W., with the northeast boundary of lot No. 61, 15 chains and 40 links to the north corner of lot No. 61; thence with the N. W. boundary of lot No. 61, S. 43½° W., 5 chains and 52¼ links to the west corner of lot No. 61; thence with the S. W. boundary of lot No. 61, S. 43½ E., 4 chains and 94 links to the north corner of lot No. 51, at the intersection of the N. W. boundary thereof, with the S. W. boundary of lot No. 61; thence with the N. W. boundary of lot No. 51, S. 43½° W., 4 chains and 88 links to the west corner of lot No. 51, S. 46½° E , 6 chains and 10 links to the north corner of lot No. 40, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 51; thence with the N. W. boundary of lot No. 40, S. 43½° W., 3 chains 23⅓ links to the west corner of lot No. 40; thence with the S. W. boundary of lot No. 40; thence S. 46½° E., 4 chains and 34 links to the N. W. end of the N. E. edge of street E, on the southwest boundary of lot No. 40; thence S. 43½° W., 66 feet to the N. W. end of the S. W. edge of street E, and the north corner of unclaimed lot

39.88

E, 322 feet 8 inches to the east corner of lot No. 31, at the intersection of the northeast boundary thereof with the northwest boundary of unclaimed lot E; thence with the N. E. boundary of lot No. 31, N. 46½° W., 13 chains and 16 links to the north corner of lot No. 31; thence with the N. W. boundary of lot No. 31, S. 43½° W., 3 chains and 88 links to west corner of lot No. 31, at the intersection of the N. W. boundary thereof with the N. E. boundary of lot No. 37; thence with the N. E. boundary of lot No. 37, N. 46½° W., 5 chains and 5½ links to the north corner of lot No. 37; thence with the N. W. boundary of lot No. 37, S. 43½° W., 7 chains and 66 links to the west corner of lot No. 37; thence with the southwest boundary of lot No. 37, S. 46½° E., 6 chains and 67½ links to the north corner of lot No. 67, at the intersection of the N. W. boundary thereof with the S. W. boundary of lot No. 37; thence with the N. W. boundary of lot No. 67, S. 43½° W., 6 chains to the west corner of lot No. 67; thence with the S. W. boundary of lot No. 67, S. 46½° E., 6 chains and 38 links to the south corner of lot No. 67, on the N. W. boundary of lot No. 64; thence S 43½ W., 1 chain and 66 links the west corner of lot No. 64, and north corner of lot No. 20; 7 chains and 61 links the west corner of lot No. 20, and north corner of lot No. 48; 11 chains and 86 links to the west corner of lot No. 48; thence with the S. W. boundary of lot No. 48, S. 46½° E., 6 chains and 88 links the point of intersection of the S. W. boundary of lot No. 48, with the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 13 chains and 93 links N. 89½° W. of the corner, to fractional sections 9 and 16 on the lake; 8 chains to the south corner of lot No. 48; thence with the southeast boundary of lot 48, N. 43½° E., 1 chain and 6 links the point of intersection of the S. E. boundary of lot No. 48 with the section line between the sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 12 chains and 38 links N. 89½° W. of the corner, to fractional sections 9 and 16 on the lake, 4 chains and 25 links to the east corner of lot No. 48, on the S. W. boundary of lot No. 20; thence with the S. W. boundary of lot N. 20, S. 46½° E., 2 chains to the south corner of lot No. 20; thence N. 43½° E., 5 chains and 95 links the east corner of lot No. 20, and south corner of lot No. 64; 13 chains and 61 links the east corner of lot No. 64, and south corner of lot No. 43; 21 chains and 47 links to the east corner of lot No. 43, and south corner of lot No. 34, at the S. W. end of the N. W. edge of Second street; then S. 46½° E., 66 feet the S. W. end of the S. E. edge of Second street, and west corner of lot No. 33; 386 feet 10 inches the south corner of lot. No. 33; 491 feet 1⅓ inch to the lower end of the southeast edge of First street, on the N. W. bank of the Lake Peoria; thence along the N. W. bank of Lake Peoria the following courses and distances: N. 38° E., 176 links; thence N. 42° E., 432 links; thence N. 17¾° E., 150 links; thence N. 78° E., 72 links; thence N. 47½° E., 417 links; thence N. 37° E., 188 links; thence N. 44¼° E., 2,448 links to the place of beginning. Then for the connexion with the public surveys, run from said place of beginning along the N. W.

bank of the Lake Peoria the following courses and distances: N. 44¾° E., 1081 links; thence N. 50¾° E., 1,300 links to the point of intersection of the section line between sections 9 and 10, with the N. W. bank of Lake Peoria, which point is 2,406 links S. 0° 30′ W. of the corner to sections 3, 4, 9, and 10, township 8 north, range 8 east, of the 4th principal meridian. Also from the lower end of the S. E. edge of First street the following courses and distances along the bank of the lake were taken for connexion: S. 51¾° W., 198 links; thence S. 39° W., 819 links; thence S. 41¼° W., 216 links; thence S. 49½° W., 287 links; thence S. 85° W., 116 links, to the point of intersection of the section line between sections 9 and 16, township 8 north, range 8 east, of the 4th principal meridian, which point is 2,510 links S. 89° 30′ E. of the corner to sections 8, 9, 16, and 17, of said townships.

Surveyed on the several days designated in the foregoing description of the lots, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved this first day of September, 1840.

WILLIAM MILBURN,
Surveyor of the public lands in the States of Illinois and Missouri.

OFFICE OF THE SURVEYOR GENERAL,
Saint Louis, February 21, 1850.

I certify that the foregoing plat and description of the new village of Peoria, and certificate of approval thereto by Surveyor General Milburn, are correctly copied from pages 79 and 80 of the record of surveys of Peoria in this office.

M. LEWIS CLARK,
Surveyor General.

Claim No. 7, situate in the southeast fractional quarter of fractional section 9, in fractional township 8 north, of the base line, range 8 east, of the fourth principal meridian.

Plat and description of the survey of a lot in the new village of Peoria, in the State of Illinois, confirmed to Thomas Forsyth by an act of Congress, approved the 3d of March, 1823, entitled "An act to confirm certain claims to lots in the village of Peoria, in the State of Illinois," it being No. 7 of the report made by the register of the land office at Edwardsville, in pursuance of an act of Congress, approved the 15th of May, 1820, entitled "An act for the relief of the inhabitants of the village of Peoria, in the State of Illinois."

[For plat see original, page 103.]

Description.

Commence at a post at the intersection of the southwest edge of the cross street B, with the northwest edge of First street, which post is the east corner of this lot; thence, with the northwest edge of First

street, south 43½ west, 40 feet, a post and stone set by it; 235 feet 3 inches and ½ of an inch to a post, the east corner of the survey of claim No. 14; 320 feet 10 inches, the south corner of this lot and of the survey of claim No. 14, and the east corner of lot No. 2; thence north 46½ west, 320 feet 10 inches, to a post in the southeast edge of Second street, the west corner of this lot and of the survey of claim No. 14, and north corner of lot No. 2; thence, with the southeast edge of Second street, north 43½° east, 85 feet 6 inches and ⅔ of an inch, to a post, the north corner of the survey of claim No. 14, 320 feet 10 inches, to a post at the intersection of the southeast edge of Second street with the southwest edge of the cross street B, which post is the north corner of this lot; thence, with the southwest edge of the cross street B, south 46½ east, 320 feet 10 inches, to the place of beginning. This lot, as surveyed and here described, contains 102,933 square feet and $\frac{99}{100}$ of a square foot, and includes the survey of the claim No. 14, confirmed [to] Jacques Mettee, as represented on the plat.

Surveyed on the 29th of April, 1837, by Joseph C. Brown, deputy surveyor, under instructions from Daniel Dunklin, surveyor of the public lands in the States of Illinois and Missouri, bearing date the 11th of April, 1837.

Examined and approved, this first day of September, 1840.

WILLIAM MILLBURN,
Surveyor of the public lands in the States of Illinois and Missouri.

SURVEYOR'S OFFICE, SAINT LOUIS,
21st of September, 1842.

The foregoing plat and description of lot number seven, in the new village of Peoria, in the State of Illinois, are correctly copied from the record thereof in the book of "Peoria surveys, Illinois," in this office.

SILAS REED,
Surveyor of the public lands in the States of Illinois and Missouri.

[For plat see original, page 104.]

A plat of a part of the French village of Peoria, situate on the southeast fractional quarter of section 9, township 8 north, range 8 east, represented on the above plat by black lines. The red lines on the above plat represent a part of Bigelow and Underhill's addition to Peoria, as located on the above described quarter section. The courses and distances marked with black are for the French lots. The courses and distances marked in red are for the lots in Bigelow and Underhill's addition to Peoria. Surveyed November 10, 1848.

(Scale 50 feet to an inch,) variation 7½°.

G. C. McFARDDEN, *C. S. P. C.*

This day, to wit, September 27th, A. D. 1850, complainants filed their replication to defendant's answer, which is as follows, to wit:

The replication of John Reynolds, Josiah E. McClure, and John McDougall, complainants, to the answer of Robert Forsyth, defendant.

The repliants saving and reserving all and all manner of exception to the insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said bill to be true, certain, and sufficient in law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants. Without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true; all which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct; and humbly pray as in and by their said bill they have already prayed.

PURPLE AND POWELL,
September 24, 1850. *For Complainants.*

This day, to wit, December 9th, 1850, on motion of complainants' solicitors, it is ordered by the court, that they have leave to open and file there depositions herein, which are as follows, to wit:

UNITED STATES OF AMERICA,
District of Michigan, ss.

I, John Winder, clerk of the circuit court of the United States of America, for the seventh circuit and district of Michigan, do hereby certify, that I am well acquainted with the handwriting of George G. Bull, whose name is subscribed to the annexed depositions, as the officer before whom the same were taken, and that the signature to the same is in his proper handwriting; and I further certify, that he was at the time of signing the same a United States' commissioner, duly appointed, under and by virtue of the acts of Congress in such case made and provided, by the circuit court of the United States, for the district of Michigan.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said circuit court, at Detroit, in the district aforesaid, this twenty-fifth day of October, in the year of [L. S.] our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

JOHN WINDER, *Clerk.*

Circuit court of the United States, for the circuit and district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall,
vs.
ROBERT FORSYTH.

In chancery.

CIRCUIT AND DISTRICT OF MICHIGAN, *ss.*

Norman H. Purple, of Peoria, in the State of Illinois, being sworn

says, that he is solicitor for the complainants in the above entitled cause; that he is informed, and verily believes, that the testimony of James Abbott, a resident of the city of Detroit, is material and necessary for the complainants in the prosecution of said cause; that the said James Abbott lives more than one hundred miles from Springfield, in the State of Illinois, where the court at which this deponent expects this cause to be tried is appointed by law to be held. And this deponent further states, that, as he is informed and believes, *that* Robert Forsyth, the above named defendant, resides at or near St. Louis, in the State of Missouri, about eight hundred miles distant from the place where the examination of the said witness is expected to be taken; and that, as he is informed and believes, Holsey O. Merriman, the solicitor for the said defendant, resides at Peoria, in the State of Illinois, about six hundred miles from the place where the examination of the witness is expected to be taken; and further saith not

N. H. PURPLE.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

I, George G. Bull, a commissioner appointed by the circuit court of the United States, for the circuit and district of Michigan, to take affidavits, acknowledgments of bail, and depositions, do certify, that the foregoing affidavit of Norman H. Purple was taken, sworn to, and subscribed before me, at Detroit, in the circuit and district aforesaid, this 23d day of October, A. D. 1850.

Witness my hand, at Detroit aforesaid, the day and year last above written.

GEORGE G. BULL,
U. S. commissioner.

CIRCUIT AND DISTRICT OF MICHIGAN, *ss.*

Let James Abbott, the witness named in the within and foregoing affidavit, be examined de bene esse before me accordingly, at the office of the said James Abbott, on Atwater street, in the city of Detroit, and State of Michigan, on the 24th day of October, 1850, at nine o'clock in the forenoon.

Witness my hand, at Detroit, this 23d day of October, A. D. 1850.

GEORGE G. BULL, *U. S. commissioner*
for the district of Michigan.

UNITED STATES OF AMERICA,
District of Michigan, ss.

City of Detroit, in the State of Michigan.

Be it remembered, that on this twenty-fourth day of October, in the year eighteen hundred and fifty, I, George G. Bull, a commissioner duly appointed by the circuit court of the United States, for the seventh

circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, did call and cause to be and personally appear before me, at the office of James Abbott, in the said city of Detroit, Atwater street, and State of Michigan, the said James Abbott, to testify and the truth to say, on the part and behalf of the complainants, in a certain matter of controversy now depending and undetermined in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougall are complainants, and Robert Forsyth is defendant; and the said James Abbott being about the age of seventy-four years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy aforesaid, I did carefully examine the said James Abbott, and he did thereupon depose, testify, and say as follows, viz.:

That he resides and was born at Detroit, in the State of Michigan aforesaid, and was acquainted with Thomas Forsyth, to whom claim 619, in the Detroit land district, was confirmed by the commissioners, of which he was one, appointed under the act of Congress entitled "An act regulating the grants of land in the Territory of Michigan," approved the third day of March, 1807. Said claim was confirmed to said Thomas Forsyth, as appears by the record of said confirmations, on page 493, volume one, American State Papers, "Public Lands;" that he knew said Thomas Forsyth in the city of Detroit aforesaid, in 1804, and many years previous; previous to the year 1796, the said Thomas Forsyth resided most of the time in Detroit; after that time, he removed to the other side of the river Detroit, into Canada, in 1804. Witness and Forsyth travelled together to Chicago, which was the last time witness saw him. This is the same Thomas Forsyth to whom claim 618, as appears by the report of confirmations on pages 460 and 461, in American State Papers, "volume 1, Public Lands," was confirmed. The said Thomas Forsyth had three brothers, William, James, and Robert, and a half brother, whose name was John Kinzie—they are all dead. Knew Major Robert A. Forsyth, who died in this city last year, and who was reputed to be the nephew of the said Thomas Forsyth. From a very early period of the life of witness, he was extensively acquainted with the citizens living in and about Detroit and Gross Point, and, to the best of his knowledge and belief there was no other Thomas Forsyth than the one above mentioned, living in or about those places, entitled to confirmations under the said acts of Congress. The name of the father of said Thomas Forsyth was William Forsyth; he lived in Detroit, and died previous to the passage of the act of Congress before referred to. When deponent last saw him, the said Thomas Forsyth, in 1804, said Thomas was about the age of twenty-five or thirty years. JAMES ABBOTT.

UNITED STATES OF AMERICA,
District of Michigan, ss.

I, George G. Bull, a commissioner duly appointed by the circuit

court of the United States, for the seventh circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, that the witness lives out of the district, and at a greater distance than one hundred miles from the place of trial of the cause depending, as appears by the affidavit of Norman H. Purple, and the deposition of the said witness hereunto annexed. I further certify, that no notification of the time and place of taking the said deposition, signed by me, was made out and served on the adverse party or his attorney, to be present at the taking of the deposition, and to put interrogatories if he or they might think fit, neither living within one hundred miles of the place of caption of the said deposition, as will appear by the said affidavit of Norman H. Purple aforesaid hereunto annexed. I further certify, that on the twenty-fourth day of October, A. D. 1850, I was attended by Norman H. Purple, the solicitor in fact of the complainants, and by the witness, who was of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn, to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, who having read the same subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up and directing the same, together with this certificate, with my own hand to the court for which the same was taken, and depositing the same in the post office at Detroit aforesaid. I further certify, that I am not of counsel or attorney for either of the parties in said deposition and caption named, or in any way interested in the event of the said cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, this twenty-fourth day of October, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth. [SEAL.]

GEO. G. BULL,
U. S. commissioner, circuit court of the U. S., for the district of Michigan.

Circuit court of the United States, for the circuit and district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall,
vs.
ROBERT FORSYTH.
} In chancery.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

Norman H. Purple, of Peoria, in the State of Illinois, being duly sworn according to law, says, that he is the solicitor for the complainants in the above entitled cause; that he is informed, and verily believes, that the testimony of General Lewis Cass, a resident of the city

of Detroit, in the State of Michigan, is a material witness for the complainants, and necessary for them in the prosecution of such cause; that the said Lewis Cass lives at the city of Detroit, in the State of Michigan, more than one hundred miles from Springfield, in the State of Illinois, where the court at which this deponent expects the said cause will be tried, is appointed by law to be held; and this deponent further says, that he is informed, and believes, that Robert Forsyth, the above named defendant, resides at or near St. Louis, in the State of Missouri, about eight hundred miles from the place where the examination of the said witness is expected to be taken; and that he is informed, and believes, Halsey O. Merriman, the solicitor of the said defendant, resides at Peoria, in the State of Illinois, about six hundred miles from the place where the examination of said witness is expected to be taken; and further says not

N. H. PURPLE.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

I, George G. Bull, a commissioner appointed by the circuit court of the United States, in and for the circuit and district of Michigan aforesaid, to take affidavits, acknowledgments of bail, and depositions, do certify, that the foregoing affidavit of Norman H. Purple was taken, subscribed, and sworn to before me, at Detroit, in the State of Michigan, this 25th day of October, A. D. 1850.

Witness my hand at Detroit aforesaid, this day and year last aforesaid.

GEO. G. BULL,
U. S. commissioner.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

Let the witness named in the above and foregoing affidavit be examined, de bene esse, before me accordingly, at his house, in Fort street, in the city of Detroit, in the State of Michigan, on the 25th day of October, A. D. 1850, at 10 o'clock, a. m., of said day.

Witness my hand at Detroit, in the State of Michigan, this 25th day of October, A. D. 1850.

GEO. G. BULL,
U. S. commissioner for the district of Michigan.

UNITED STATES OF AMERICA,
City of Detroit, in the State and district of Michigan, ss.

Be it remembered, that on this twenty-fifth day of October, in the year of our Lord one thousand eight hundred and fifty, I, George G. Bull, a commissioner to take acknowledgment of bail, affidavits, depositions, &c., duly appointed by the circuit court of the United States, for the seventh circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, did call and cause to be and personally appear before me, at the house of Lewis

Cass, in said city of Detroit, on Fort street, and State of Michigan, the said Lewis Cass, to testify and the truth to say, on the part and behalf of the complainants, in a certain matter of controversy now depending and undetermined in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougall, are complainants, and Robert Forsyth is defendant. And the said Lewis Cass, being about the age of sixty-eight years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter in controversy aforesaid, I did carefully examine the said Lewis Cass, and he did thereupon depose, testify, and say, as follows, to wit: That he is about sixty-eight years of age, and resides in the city of Detroit, in the State of Michigan, where he has resided for the last thirty-five years; was acquainted with Thomas Forsyth; thinks he has seen him in Detroit; knows he has met him at St. Louis, in the State of Missouri, and believes he has met him at Chicago and Rock Island, in the State of Illinois; should think he first knew him in 1816 or 1817, at one of the above places. Knows Forsyth was an Indian agent, and believes at one time he was an Indian agent at Rock Island. Knows Forsyth lived at St. Louis; and witness believes he was at one time at Forsyth's house in St. Louis. More than twenty years ago, from witness's acquaintance with the said Thomas Forsyth, and from his recollection of the act of Congress, entitled an act regulating grants of land in the Territory of Michigan, approved the third day of March, 1807, and from an examination, this day made, of the American State Papers, volume one, pages 460 and 461, and 493, and from the further fact, that Major Robert A. Forsyth, who was the nephew of the said Thomas Forsyth, was the private secretary of the witness for thirteen years, he has no doubt that the said Thomas Forsyth, who he knew at St. Louis and other places before mentioned, was the same Thomas Forsyth to whom claims number 618 and number 619, as appears by the said State Papers, and the report of the commissioners appointed under the said act, to have been confirmed to the said Thomas Forsyth under the said act. The State Papers above referred to is the first volume of said State Papers in relation to public lands, published under the authority of the Senate of the United States. Witness has no knowledge that he knows of any other matter or thing that would be of benefit to either of the parties to this suit.

LEWIS CASS.

UNITED STATES OF AMERICA,
District of Michigan, ss.

I, George G. Bull, a commissioner duly appointed by the circuit court of the United States, for the seventh circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, that the witness lives out of the district, and at a greater distance than one hundred miles from the place

of trial of the cause depending, as appears by the affidavit of Norman H. Purple, and the deposition of the said witness hereto annexed. I further certify, that no notification of the time and place of taking the said deposition, signed by me, was made out and served on the adverse party, or his attorney, to be present at the taking of the deposition, and to put interrogatories if he or they might think fit, neither being within one hundred miles of the place of caption of the said deposition, as will appear by the said affidavit of Norman H. Purple aforesaid, hereunto annexed. I further certify, that on the twenty-fifth day of October, A. D. 1850, I was attended by Norman H. Purple, the solicitor in fact of the complainants, and by the witness, who was of sound mind and lawful age; and the witness was by me carefully examined, and cautioned, and sworn, to testify [the] whole truth, and the deposition was by me reduced to writing in the presence of the witness, who, having read the same, subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up and directing the same, together with this certificate, with my own hand, to the court for which the same was taken. I further certify, that I am not of attorney or counsel for either of the parties in said deposition and caption named, or in any way interested in the event of said cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, this twenty-fifth day of October, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

GEO. G. BULL, [SEAL.]

U. S comm'er, circuit court, U. S., for the dist. of Michigan.

Circuit court of the United States, for the circuit and district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall, vs. ROBERT FORSYTH. } In chancery.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

Norman H. Purple, of Peoria, in the State of Illinois, being duly sworn according to law, says, that he is the solicitor of the complainants in the above entitled cause; that he is informed, and verily believes, that the testimony of Benjamin B. Kerchival, a resident of the city of Detroit, in the State of Michigan, is a material witness for the complainants, and necessary for them in the prosecution of such case; that the said Benjamin B. Kerchival lives at the city of Detroit, in the State of Michigan, more than one hundred miles from Springfield, in the State of Illinois, where the court at which this deponent expects the said cause will be tried as appointed by law to be held; and this deponent further says, that he is informed, and verily believes, that Robert Forsyth, the above named defendant, resides at or near St.

Louis, in the State of Missouri, about eight hundred miles from the place where the examination of the said witness is expected to be taken; and that he is informed and believes Halsey O. Merriman, the solicitor of the said defendant, resides at Peoria, in the State of Illinois, about six hundred miles from the place where the examination of said witness is expected to be taken; and further saith not

N. H. PURPLE.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

I, George G. Bull, a commissioner appointed by the circuit court of the United States, in and for the circuit and district of Michigan aforesaid, to take affidavits, acknowledgments of bail, and depositions, do certify, that the foregoing affidavit of Norman H. Purple was taken, subscribed, and sworn to before me, at Detroit, in the State of Michigan, this 25th day of October, A. D. 1850. Witness my hand at Detroit aforesaid, this day and year last aforesaid.

GEO. G. BULL,
U. S. commissioner.

UNITED STATES OF AMERICA,
Circuit and district of Michigan, ss.

Let the witness named in the above and foregoing affidavit be examined, de bene esse, before me accordingly, at my office in the United States court-house, in the city of Detroit, in the State of Michigan, on the 25th day of October, A. D. 1850, at two o'clock in the afternoon of said day.

Witness my hand at Detroit, in the State of Michigan, this 25th day of October, A. D. 1850.

GEO. G. BULL,
United States commissioner for the district of Michigan.

UNITED STATES OF AMERICA,
District of Michigan, ss., city of Detroit, in the State of Michigan.

Be it remembered, that on this twenty-fifth day of October, A. D. 1850, I, George G. Bull, a commissioner duly appointed by the circuit court of the United States, for the seventh circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, did call and cause to be, and personally appear before me, at my office in said city of Detroit, and State of Michigan, in the United States circuit and district court-house, Benjamin B. Kurchival, to testify, and the truth to tell, and say on the part and behalf of the complainants, in a matter of controversy now depending and undetermined in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougall are complainants, and Robert Forsyth is defendant; and the said Benjamin B. Kurchival being about the age of fifty-five years, and having been by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the matter of controversy

aforesaid, I did carefully examine the said Benjamin B. Kurchival, and he did thereupon depose, testify, and say as follows, to wit: That he resides in the city of Detroit, in the State of Michigan, and is now a commission merchant; has resided in Detroit for the past twenty-four years, and has been acquainted with and in Detroit and its neighborhood for thirty-three years; knew one Thomas Forsyth in Detroit in the year 1819 or 1820; that he was employed by witness in one or the other of those years to go and live with him at Fort Wayne, in the State of Indiana, as a clerk, and he remained in witness's employ for several years; after so serving with witness the above time Forsyth left his employ, but continued to live in Fort Wayne until the time of his death, which occurred in 1834 or 1835; Forsyth was twenty-four or twenty-five years of age, or thereabouts, when witness first became acquainted with him; the said Thomas Forsyth was the reputed son of William Forsyth, of Sandwich, in Canada; has been well acquainted in Detroit, and partially acquainted in Grosse Point, the town adjoining Detroit, for the past thirty-three years; never knew any other Thomas Forsyth than the one above described, who lived in Detroit or vicinity during witness's acquaintance there; in the month of August, in the year 1829, witness met another and older man by the name of Thomas Forsyth at Prarie Duchien, Wisconsin, at an Indian treaty held there; met the same Thomas Forsyth again, at a treaty held at Chicago, in the State of Illinois; became acquainted with him at that treaty, which was made in 1833, and learned that he was the uncle of witness's wife, and the reputed uncle of the first above named Thomas Forsyth; when witness so became acquainted with Thomas Forsyth the older, he, Forsyth, must have been about sixty years of age; knew Robert A. Forsyth, who died in this city last year, and who was the reputed nephew of the last named Thomas Forsyth, the elder, and cousin of the first named Thomas Forsyth, the younger; has heard, and believes, that Thomas Forsyth, the elder, had grants of land confirmed to him in Detroit or vicinity in the year 1808 or 1810; knows of no other matter or thing that would be of benefit to either of the parties to this suit.

B. B. KERCHEVAL.

UNITED STATES OF AMERICA,
District of Michigan, ss.

I, George G. Bull, a commissioner duly appointed by the circuit court of the United States, for the seventh circuit and district of Michigan, under and by virtue of the several acts of Congress in such case made and provided, do hereby certify, that the reason for taking the foregoing deposition is, and the fact is, that the witness lives out of the district, and at a greater distance than one hundred miles from the place of trial of the cause depending, as appears by the affidavit of Norman H. Purple, and the deposition of the said witness hereunto annexed.

I further certify, that no notification of the time and place of taking the said deposition, signed by me, was made out and served on the

adverse party, or his attorney, to be present at the taking of the deposition, and to put interrogatories if he or they might think fit, neither living within one hundred miles of the place of caption of the said deposition, as will appear by the said affidavit of Norman H. Purple aforesaid, hereunto annexed.

I further certify, that on the twenty-fifth day of october, A. D. 1850, I was attended by Norman H. Purple, the solicitor in fact of the complainants, and by the witness, who was of sound mind and lawful age, and the witness was by me carefully examined, and cautioned, and sworn to testify the whole truth, and the deposition was by me reduced to writing in the presence of the witness, who having read the same subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up and directing the same, together with this certificate, with my own hand, to the court for which the same was taken.

I further certify, that I am not of counsel or attorney for either of the parties in said deposition and caption named, or in any way interested in the event of the said cause named in the caption.

In testimony whereof I have hereunto set my hand and seal, this twenty-fifth day of October, in the year of our Lord one thou-
[SEAL.] sand eight hundred and fifty, and of the independence of the United States the seventy-fifth.

GEO. G. BULL, *U. S. commissioner, circuit court, U. S., for the district of Michigan.*

In the circuit court of the United States of America, for the circuit and district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall, vs. ROBERT FORSYTH. } In chancery.

M.

It is hereby stipulated and agreed, by and between the counsel for the respective parties to the above entitled cause, that the deposition of Norman H. Purple, of Peoria, Peoria county, Illinois, shall be taken at the office of N. H. Purple in Peoria aforesaid, on the second day of December, A. D. 1850, before George T. Metcalf, esq., United States commissioner, or before some judge or justice of the peace of Peoria county aforesaid, to be read in evidence upon the trial of the above cause on behalf of complainants, subject to all legal objections to the competency of the witnesses, and the relevancy and competency of the testimony.

H. O. MERRIMAN,
For defendant.
N. H. PURPLE,
E. N. POWELL,
For complainants.

Peoria, November 16, 1850.

The deposition of Norman H. Purple, esq., taken pursuant to the stipulation hereto attached, and marked "M," on Monday, the second day of December, A. D. 1850, at the office of said Purple, in the said city and county of Peoria.

The said Norman H. Purple, being by me first duly sworn according to law, deposed, that on the 23d day of October, A. D. 1850, he procured from the register of deeds at Detroit, in the county of Wayne, in the State of Michigan, the certified copy of the power of attorney hereto attached, marked "A," from Thomas Forsyth to Robert A. Forsyth; also the certified copy of the deed marked "B," hereto attached, from Thomas Forsyth, by his attorney, Robert A. Forsyth, to Stephen Crane; also the certified copy of the deed marked "C," hereto attached, from Thomas Forsyth, by his attorney, Robert A. Forsyth, to Pierre Bourjains, dit Provonsalle; that he carefully compared each of the said papers with the original record remaining in the office of the said register of deeds at Detroit aforesaid, and knows that they are true and literal copies of the record of each of said papers; that he made diligent inquiry after each of the original of said papers of all persons whom he supposed would be likely to know where they were; that upon such inquiry he ascertained that Robert A. Forsyth, who resided at Detroit, and to whom said power of attorney purports to have been made, died about 18 months since, at Detroit, and that he had no executor or administrator; affiant ascertained this latter fact by inquiring and searching the records of the proper office in Detroit, where wills, letters testamentary, and letters of administration are, and ought to be, recorded. Upon inquiry, he found the said Provonsalle, to whom said deed marked "C" was made, living upon the land described in the said deed, and inquired of him where his said original deed was to be found, and was informed by him that the same was not then in his possession, and that he could not tell where said deed was. Affiant inquired also in and about Detroit, which is about nine miles from the land described in the deed to Stephen Crane, and also about the same distance from the land described in said deed to said Provonsalle, and also of various persons in the immediate neighborhood of said lands, for the said Stephen Crane, and for and about the said original deed to him, and could not find said deed, nor any person who knew said Crane, or where said deed could be found; affiant saw several persons in the neighborhood who said they had understood said Crane had died several years ago, and affiant could not find any person who knew whether he had any heirs or legal representatives.

The foregoing inquiries and searches and comparisons of said papers were made about the 22d, 23d, and 24th of October, A. D. 1850; and farther, affiant says that he knows nothing farther of benefit to either party.

N. H. PURPLE.

STATE OF ILLINOIS, *county of Peoria.*

Be it remembered, that on the second day of December, A. D. 1850, at the office of Norman H. Purple, esq., in the city and county of

Peoria, in the State of Illinois, the said Norman H. Purple personally appeared before me, George T. Metcalf, a commissioner appointed under the laws of the United States to take affidavits and acknowledgments of bail, and presented the foregoing stipulation signed by the solicitors of the parties, complainants and defendant, in the aforesaid suit now pending in the circuit court of the United States, for the district of Illinois, in which said suit John Reynolds, Josiah E. McClure, and John DcDougal are complainants, and Robert Forsyth is defendant; which stipulation, so signed, is herewith annexed, marked "M;" and thereupon the said Norman H. Purple, esq., being by me duly sworn to testify the truth, the whole truth, and nothing but the truth, touching the matters in controversy in said suit, did thereupon himself reduce to writing in my presence the foregoing deposition, and in my presence did sign the same; and I further certify, that I am not of counsel o attorney for either of the parties to the said suit, nor am I interested in the event thereof; and I further certify, that the counsel for both parties to said suit were present at the taking of said deposition and assented thereto, as set forth in said stipulation, and that the said Norman H. Purple, esq., did at said time produce the exhibits hereto by me attached and marked, as stated in said deposition, and request me so to annex said exhibits to said deposition as a part thereof; and I certify, that said exhibits hereto annexed are the same exhibits by the said Purple produced as a part of his deposition as aforesaid.

GEO. T. METCALFE,

PEORIA, *December second*, A. D. 1850. *Commissioner.*

Thomas Forsyth to Robert A. Forsyth.

Power of attorney received for record at Detroit, register's office, this 25th day of April, A. D. 1823, at ten o'clock in the forenoon.

JER. V. R. TEN EYK,
Register, W. C. T. M.

A.

Know all men by these presents, that I, Thomas Forsyth, of the town and county of St. Louis, in the Missouri Territory, for and in consideration of the trust and confidence which I repose in my nephew, Robert A. Forsyth, of the town of Detroit, and Territory of Michigan, I have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him, the said Robert A. Forsyth, junior, my true and lawful attorney in fact, for me and in my name, and for my use and benefit, to bargain, sell, and deliver, all the lands that I own at Gross Point, in said Territory of Michigan; and I do hereby ratify and confirm all that my said attorney shall lawfully do in the premises by virtue of these presents, making the same as binding and effectual on me, my heirs, executors, and administrators, as if I had been personally present and done the same.

In witness hereof I have signed my name and affixed my seal, at

The deposition of Norman H. Purple, esq., taken pursuant to the stipulation hereto attached, and marked "M," on Monday, the second day of December, A. D. 1850, at the office of said Purple, in the said city and county of Peoria.

The said Norman H. Purple, being by me first duly sworn according to law, deposed, that on the 23d day of October, A. D. 1850, he procured from the register of deeds at Detroit, in the county of Wayne, in the State of Michigan, the certified copy of the power of attorney hereto attached, marked "A," from Thomas Forsyth to Robert A. Forsyth; also the certified copy of the deed marked "B," hereto attached, from Thomas Forsyth, by his attorney, Robert A. Forsyth, to Stephen Crane; also the certified copy of the deed marked "C," hereto attached, from Thomas Forsyth, by his attorney, Robert A. Forsyth, to Pierre Bourjains, dit Provonsalle; that he carefully compared each of the said papers with the original record remaining in the office of the said register of deeds at Detroit aforesaid, and knows that they are true and literal copies of the record of each of said papers; that he made diligent inquiry after each of the original of said papers of all persons whom he supposed would be likely to know where they were; that upon such inquiry he ascertained that Robert A. Forsyth, who resided at Detroit, and to whom said power of attorney purports to have been made, died about 18 months since, at Detroit, and that he had no executor or administrator; affiant ascertained this latter fact by inquiring and searching the records of the proper office in Detroit, where wills, letters testamentary, and letters of administration are, and ought to be, recorded. Upon inquiry, he found the said Provonsalle, to whom said deed marked "C" was made, living upon the land described in the said deed, and inquired of him where his said original deed was to be found, and was informed by him that the same was not then in his possession, and that he could not tell where said deed was. Affiant inquired also in and about Detroit, which is about nine miles from the land described in the deed to Stephen Crane, and also about the same distance from the land described in said deed to said Provonsalle, and also of various persons in the immediate neighborhood of said lands, for the said Stephen Crane, and for and about the said original deed to him, and could not find said deed, nor any person who knew said Crane, or where said deed could be found; affiant saw several persons in the neighborhood who said they had understood said Crane had died several years ago, and affiant could not find any person who knew whether he had any heirs or legal representatives.

The foregoing inquiries and searches and comparisons of said papers were made about the 22d, 23d, and 24th of October, A. D. 1850; and farther, affiant says that he knows nothing farther of benefit to either party. N. H. PURPLE.

STATE OF ILLINOIS, *county of Peoria.*

Be it remembered, that on the second day of December, A. D. 1850, at the office of Norman H. Purple, esq., in the city and county of

Peoria, in the State of Illinois, the said Norman H. Purple personally appeared before me, George T. Metcalf, a commissioner appointed under the laws of the United States to take affidavits and acknowledgments of bail, and presented the foregoing stipulation signed by the solicitors of the parties, complainants and defendant, in the aforesaid suit now pending in the circuit court of the United States, for the district of Illinois, in which said suit John Reynolds, Josiah E. McClure, and John DcDougal are complainants, and Robert Forsyth is defendant; which stipulation, so signed, is herewith annexed, marked "M;" and thereupon the said Norman H. Purple, esq., being by me duly sworn to testify the truth, the whole truth, and nothing but the truth, touching the matters in controversy in said suit, did thereupon himself reduce to writing in my presence the foregoing deposition, and in my presence did sign the same; and I further certify, that I am not of counsel o attorney for either of the parties to the said suit, nor am I interested in the event thereof; and I further certify, that the counsel for both parties to said suit were present at the taking of said deposition and assented thereto, as set forth in said stipulation, and that the said Norman H. Purple, esq., did at said time produce the exhibits hereto by me attached and marked, as stated in said deposition, and request me so to annex said exhibits to said deposition as a part thereof; and I certify, that said exhibits hereto annexed are the same exhibits by the said Purple produced as a part of his deposition as aforesaid.

GEO. T. METCALFE,

PEORIA, *December second*, A. D. 1850. *Commissioner.*

Thomas Forsyth to Robert A. Forsyth.

Power of attorney received for record at Detroit, register's office, this 25th day of April, A. D. 1823, at ten o'clock in the forenoon.

JER. V. R. TEN EYK,
Register, W. C. T. M.

A.

Know all men by these presents, that I, Thomas Forsyth, of the town and county of St. Louis, in the Missouri Territory, for and in consideration of the trust and confidence which I repose in my nephew, Robert A. Forsyth, of the town of Detroit, and Territory of Michigan, I have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him, the said Robert A. Forsyth, junior, my true and lawful attorney in fact, for me and in my name, and for my use and benefit, to bargain, sell, and deliver, all the lands that I own at Gross Point, in said Territory of Michigan; and I do hereby ratify and confirm all that my said attorney shall lawfully do in the premises by virtue of these presents, making the same as binding and effectual on me, my heirs, executors, and administrators, as if I had been personally present and done the same.

In witness hereof I have signed my name and affixed my seal, at

St. Louis, this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and nineteen.

THOMAS FORSYTH. [L. S.]

Witness—J. CONNOLLY,
THO. HANLY.

TERRITORY OF MISSOURI,
County and township of St. Louis.

Be it remembered, that on this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and nineteen, personally appeared Thomas Forsyth, before me, a justice of the peace for the county and township aforesaid, and doth acknowledge the power of attorney hereunto annexed to be his act and deed, hand and seal, for the purposes therein mentioned and contained.

Given under my hand and seal the day, month, and year above written.

JOSEPH CHARLESS,
A justice of the peace.

Frederick Bates, secretary, exercising the government of Missouri Territory, to all whom it may concern.

Be it known, that Joseph Charless is a justice of the peace within and for the county of St. Louis, Territory of Missouri aforesaid, regularly commissioned.

In testimony whereof I have hereunto affixed the seal of the Territory. Given under my hand at St. Louis, the 26th day of May, A. D. one thousand eight hundred and nineteen, and of the independence of the United States XLIII.

FREDERICK BATES.

REGISTER'S OFFICE,
Wayne county, State of Michigan.

I hereby certify, that the above and foregoing is a true copy of a power of attorney recorded in this office, in liber No. six, of county records, on pages Nos. 356 and 357.

Given under my hand and the seal of office, at Detroit, this twenty-third day of October, A. D. eighteen hundred and fifty. [SEAL.]

CHAS. V. SELKRIG,
Register of deeds, Wayne county, Michigan.

UNITED STATES OF AMERICA,
State of Michigan, county of Wayne, ss.

I hereby certify, that Charles V. Selkrig, whose name is subscribed to the within certificate of the record of the within power of attorney, was, on the day of the date of said certificate, register of deeds of the county of Wayne, and State aforesaid, and still is such register, and

that the evidence of his election and qualification remain of record in this office.

In witness whereof I have hereunto set my hand and affixed the [SEAL.] seal of said county, this twenty-fourth day of October, A. D. 1850.

SILAS A. BAGG,
Clerk of said county of Wayne.

STATE OF MISSOURI,
County of St. Louis, ss.

I, the undersigned, recorder in and for said county and State, do hereby certify, that Joseph Charless was, on the twenty-sixth day of May, eighteen hundred and nineteen, an acting justice of the peace in and for said county, and Territory of Missouri, duly commissioned and qualified, and as such justice was duly authorized by law to take the acknowledgment of deeds and other instruments in writing, and that his commission is of record in my office; and I further certify, that the certificate of said Joseph Charless, of the acknowledgment of Thomas Forsyth, a copy whereof is written on the second page of this document, is in due form according to the laws of the Territory of Missouri at that date.

[SEAL.] Given under my hand and official seal, the 6th day of November, A. D. eighteen hundred and fifty.

STEPHEN D. BARLOW, *Recorder.*

Thomas Forsyth to Stephen Crane.

Deed received for record, May 1st, 1828, at half past 12 o'clock, noon.

T. HINCHMAN, *Reg.*

B.

This indenture, made this fourth day of November, one thousand eight hundred and twenty-six, by and between Thomas Forsyth, of St. Louis, in the State of Missouri, by his attorney in fact, Robert A. Forsyth, of Detroit, in the Michigan Territory, hereunto duly authorized by letter of attorney, recorded in book No. 6, at pages 356 and 357, of the registry of deeds for the county of Wayne, and Stephen Crane, of the county and Territory aforesaid, witnesseth: That the said Thomas Forsyth, for and in consideration of the sum of nine hundred dollars, to him paid by the said Stephen Crane, the receipt whereof he doth hereby acknowledge, doth by these presents give, grant, bargain, sell, and convey, unto the said Stephen Crain, his heirs and assigns, a certain tract or parcel of land situate at Gross Point in the county aforesaid, and described as follows, to wit, said parcel of land being the upper part of Thomas Forsyth's farm at Gross Point, so called, being three acres in front on Lake St. Clair, and extending

back one hundred acres in rear, and containing by estimation three hundred acres, together with all the privileges and appurtenances to the said land in any wise appertaining and belonging; to have and to hold the above granted premises to the said Stephen Crane, his heirs and assigns, and to his and their use and behoof forever; and I, the said Thomas Forsyth, by my attorney aforesaid, for myself and my legal representatives, do covenant with the said Stephen Crane, his heirs and assigns, that I am lawfully seized in fee of the afore granted premises, that they are free from all encumberances, that I have good right to sell and convey the same to the said Stephen Crane as aforesaid, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said Stephen Crane, his heirs and assigns forever, against the lawful claims and demands of all persons whatever.

In testimony whereof I, the said Thomas Forsyth, by my attorney aforesaid, have hereto set my hand and affixed my seal, the day and year first above written.

(Signed) R. A. FORSYTH, [SEAL.]
Attorney of THOMAS FORSYTH.

Signed, sealed and delivered in presence of—
A. E. BRUSH,
E. P. HASTINGS.

MICHIGAN TERRITORY,
County of Wayne, ss.

On this 4th day of November, A. D. 1826, personally appeared before me, the undersigned justice of the peace, Robert A. Forsyth, (attorney of Thomas Forsyth,) signer and sealer of the foregoing instrument of writing, and acknowledged the same to be the voluntary act and deed of the said Thomas Forsyth.

Given under my hand at the city of Detroit, the day and year last above written.

B. F. H. WITHERELL,
J. P., W. C., M. T.

This is to sartify, that I give to Betsey Big Nal and Solomon L. Big Nale, her husband, my eacquil undevided part of three hundred acre, of the witch the th'd deed contane, with their paying a certain noat thtt Robert foresith holds against Stephen Crane for bac interest. March 3, 1827.

STEPHEN CRANE.

REGISTER'S OFFICE,
Wayne county, State of Michigan.

I hereby certify, that the above and foregoing is a true copy of a deed recorded in this office, in liber No. eight, of county records, on pages Nos. 517 and 518.

Given under my hand and the seal of office, at Detroit, this twenty-third day of October, A. D. eighteen hundred and fifty.

[SEAL.]

CHAS. V. SELKRIG,
Register of deeds, Wayne county, Michigan.

This certificate is not a part of the record of the deed as recorded.

UNITED STATES OF AMERICA,
State of Michigan, Wayne county, ss.

I, Silas A. Bagg, clerk of the circuit court of the county of Wayne aforesaid, do hereby certify, that the annexed deed was, and is, acknowledged in conformity with the laws of the Territory of Michigan, which were in force at the time of the execution and acknowledgment of the same.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county and circuit court at Detroit, this 25th day of October, A. D. 1850.

[SEAL.]

SILAS A. BAGG, *Clerk*,
Per J. W. BAGG, *Dep. Clerk*.

UNITED STATES OF AMERICA,
State of Michigan, county of Wayne, ss.

I hereby certify, that Charles V. Selkrig, whose name is subscribed to the within certificate of the record of the within deed, was, on the day of the date of said certificate, register of deeds of the county of Wayne and State aforesaid, and still is such register, and that the evidence of his election and qualification remain of record in this office.

In witness whereof I have hereunto set my hand and affixed the seal of said county this twenty-fourth day of October, A. D. 1850.

[SEAL.]

SILAS A. BAGG,
Clerk of said county of Wayne.

STATE OF MICHIGAN,
County of Wayne, ss.

I, Silas A. Bagg, clerk of said county of Wayne, and also clerk of the circuit court of said county, do hereby certify, that B. F. H. Witherell, whose name is subscribed to the certificate or proof of acknowledgment of the annexed instrument, and therein written, was, at the time of taking such proof or acknowledgment, a justice of the peace in and for said *said* county, duly appointed and qualified, and duly authorized to take the same. I further certify, that said instrument is executed and acknowledged according to the law of this State.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, at the city of Detroit, this 25th day of October, A. D. 1850.

[SEAL.]

SILAS A. BAGG, *Clerk*,
Per J. W. BAGG, *Dep. Clerk*.

Thomas Forsyth, by R. A. Forsyth, his attorney, to Pierre Bourjears, dit Provansalle.

Received for record at Detroit, register office, this 25th day of April, A. D. 1823, at ten o'clock in the forenoon.

JER. V. R. TEN EYCK,
Register W. C. T. M.

"C."

Know all men by these presents, that I, Thomas Forsyth, of the town and county of St. Louis, in the now State of Missouri, for and in consideration of the sum of nine hundred dollars, to me in hand paid to my satisfaction by Pierre Boujears, dit Provansalle, of the county of Wayne, and Territory of Michigan, the receipt of which sum I do hereby acknowledge, have given, granted, bargained, sold, aliened, conveyed, and confirmed, unto the said Pierre, and do, by these presents, give, grant, bargain, sell, alien, convey, and confirm, to the said Pierre, his heirs and assigns forever, the following described tract or parcel of land, lying and being in the county of Wayne aforesaid, at a place known and called Gross Point, on Lake St. Clair, and is part of a tract granted and confirmed to the said Thomas by patent from the President of the United States, on the seventh day of October, in the year of our Lord one thousand eight hundred and eleven, bounded and described as follows, to wit: Beginning at a post standing on the border of Lake St. Clair, between this tract and a tract confirmed to John Kinzie, and now owned and occupied by John Grant; thence up said lake, on the border of the same, till it shall include three acres in front on said lake; thence running from said lake in a parallel line with the line between this tract and the tract confirmed to said Kinzie, one hundred acres, being the whole depth of the land confirmed to said Thomas; thence to the tract confirmed to said Kinzie, and now owned by said Grant; thence on said line between this tract and the tract confirmed to said Kinzie aforesaid, to the post standing on the border of Lake St. Clair, the place of beginning, containing three hundred acres, be the same more or less. It being the intention of this deed to convey to said Pierre three hundred acres of land next adjoining the tract confirmed to said Kinzie, and now owned and occupied by said Grant, having three acres in front on said Lake St. Clair, by one hundred acres in depth, as granted and confirmed to said Thomas, the same being part of five hundred and twenty-seven acres and one-tenth of an acre confirmed to said Thomas as aforesaid.

To have and to hold the before granted and bargained premises to the said Pierre, his heirs and assigns, forever. And I, the said Thomas Forsyth, do, for myself, my heirs, executors, and administrators, covenant to and with the said Pierre Bourjears, dit Provansalle, his heirs, executors, administrators, and assigns, that until the ensealing and delivery hereof I am the true, lawful, and proper owner of the before granted and bargained premises, and have in me full power and law-

ful authority to sell and convey the same, and that I will warrant and defend the same against the lawful claims and demands of all persons whatsoever.

In testimony whereof Robert A. Forsyth, by virtue of a power of attorney, duly executed by said Thomas Forsyth, and dated the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and nineteen, a true and perfect copy of which is herewith underwritten, being thereby authorized so to do, has hereunto affixed the hand and seal of said Thomas, at the city of Detroit, in the Territory aforesaid, this twenty-third day of April, in the year of our Lord one thousand eight hundred and twenty-three, at a place known and called Gross Point, on Lake St. Clair, interlined before execution.

THOMAS FORSYTH, [L. S.]
By R. A. FORSYTH, *his attorney.*

Signed, sealed, and delivered, in presence of us—
JAMES MCCLOSKEY,
JOHN HUNT.

Know all men by these presents, that I, Thomas Forsyth, of the town and county of St. Louis, in the Missouri Territory, for and in consideration of the trust and confidence which I repose in my nephew, Robert A. Forsyth, junior, of the town of Detroit and Territory of Michigan, I have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint him, the said Robert A. Forsyth, junior, my true and lawful attorney in fact, for me and in my name, and for my use and benefit, to bargain, sell, and deliver, all the lands that I own at Gross Point, in said Territory of Michigan; and I do hereby ratify and confirm all that my said attorney shall lawfully do in the premises, by virtue of these presents, making the same as binding and effectual on me, my heirs, executors, and administrators, as if I had been personally present and done the same.

In witness hereof I have signed my name and affixed my seal at St. Louis, this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and nineteen.

THOMAS FORSYTH. [SEAL.]

Witness—
J. CONNELY,
THO. HANLY.

TERRITORY OF MISSOURI,
County and township of St. Louis.

Be it remembered, that on this twenty-sixth day of May, in the year of our Lord one thousand eight hundred and nineteen, personally appeared Thomas Forsyth, before me, a justice of the peace for this county and township aforesaid, and doth acknowledge the power of attorney hereunto annexed to be his act and deed, hand and seal, for the pur-

pose therein mentioned and contained. Given under my hand seal, the day, and month, and year above written.

FREDERICK BATES, *Sec'y.*
Exercising the government of Missouri Territory.

To all whom it may concern. Be it known that Joseph Charless is a justice of the peace within and for the county of St. Louis, Territory of Missouri aforesaid, regularly commissioned. In testimony whereof I have hereunto affixed the seal of the Territory.

Given under my hand at St. Louis, the 26th day of May, A. D. one thousand eight hundred and nineteen, and after the independence of the United States XLIII.

[SEAL.]

FREDERICK BATES.

TERRITORY OF MICHIGAN,
Wayne county, ss.

Be it remembered, that on this twenty-fourth day of April, in the year of our Lord one thousand eight hundred and twenty-three, personally appeared before me Robert A. Forsyth, and acknowledged the within deed to be the free act and deed of Thomas Forsyth, for the purposes therein expressed, by virtue of the power of attorney within specified from said Thomas to said Robert A.

In testimony whereof I have hereunto affixed my hand the day and year before written, at the city of Detroit, within the county and Territory aforesaid.

[SEAL.]

GEORGE McDOUGALL,
Justice of the peace for the county of Wayne and Territory aforesaid.

REGISTER'S OFFICE,
Wayne county, State of Michigan.

I hereby certify, that the above is a true copy of a deed and power of attorney, recorded in this office in liber No. six of deeds, folios 357, 358, 359, and 360.

Given under my hand and the seal of office at Detroit, this twenty-third day of October, A. D. eighteen hundred and fifty.

[SEAL.]

CHAS. V. SELKRIG,
Register of deeds, Wayne county, Michigan.

This certificate is not a part of the record of the deed as recorded.

N. H. PURPLE.

UNITED STATES OF AMERICA,
State of Michigan, Wayne county, ss.

I, Silas A. Bagg clerk of the circuit court of the county of Wayne aforesaid, do hereby certify, that the annexed deed was acknowledged in conformity with the laws of the Territory of Michigan, which were in force at the time of the execution and acknowledgment of the same.

In testimony whereof I have hereunto set my hand and affixed the seal of the said county and circuit court at Detroit, this 25th day of October, A. D. 1850. [SEAL.]

SILAS A. BAGG, *Clerk*,
Per J. W. BAGG, *Dept. Clerk*.

UNITED STATES OF AMERICA,
State of Michigan, Wayne county, ss.

I hereby certify, that Charles V. Selkrig, whose name is subscribed to the within certificate of the record of the within deed and power of attorney, was on the day of the date of said certificate register of deeds of the county of Wayne and State aforesaid, and still is such register; and that the evidence of his election and qualification remain of record in this office.

In witness whereof I have hereunto set my hand, and affixed the seal of said county, at the city of Detroit, this twenty-fourth day of October, A. D. 1850. [SEAL.]

SILAS A. BAGG,
Clerk of said county of Wayne.

STATE OF MICHIGAN,
Wayne county, ss.

I, Silas A. Bagg, clerk of said county of Wayne, and also clerk of the circuit court of said county, do hereby certify, that George McDougall, whose name is subscribed to the certificate or proof of the acknowledgment of the annexed instrument, and therein written, was at the time of taking such proof or acknowledgment a justice of the peace in and for said county, duly appointed and qualified, and duly authorized to take the same. I further certify, that said instrument is executed and acknowledged according to the laws of this State. In testimony whereof I have hereunto set my hand, and affixed the seal of said county, at the city of Detroit, this 25th day October, A. D. 1850. [SEAL.]

SILAS A. BRAGG, *Clerk*,
Per J. W. BRAGG, *Dept. Clerk*.

In the circuit court of the United States of America, for the circuit and district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall,
vs.
ROBERT FORSYTH.
} In chancery.

It is hereby stipulated and agreed, by and between the counsel for the respective parties to the above entitled cause, that the deposition of Antoine Laclave, of Devenport, in the State of Iowa, shall be taken before Joseph Conway, United States commissioner in and for the State

and district of Illinois, residing at Rock Island, Rock Island county, Illinois, at such time and place, not exceeding three weeks from the date hereof, as may be designated by the said Joseph Conway, commissioner as aforesaid, he first notifying J. O. Wilkinson of the time and place of taking the same, to be read in evidence upon the trial of this cause, subject to all legal objections to the competency of the witness, and the relevancy and competency of his testimony, upon the following interrogatories.

N. H. PURPLE, *for Compt.*
H. O. MERRIMAN.

Peoria, Nov. 20, 1850.

Interrogatories on the part of complainants.

1st. What is your name, age, place of residence, and occupation?

2d. State whether you were ever acquainted with one Thomas Forsyth; and if so, when and where; when and at what place did you first know him; what was his business or employment during the whole period of your acquaintance with him; and how long did he continue in each particular business or employment during said time?

3d. Is the said Thomas Forsyth dead or alive; if dead, where did he die, and when? State whether you were acquainted with his family, how many children had he, what were their names, and where do they or any of them, if alive, now reside.

4th. Have you any knowledge either from the statements of the said Thomas Forsyth, or otherwise, and if so, from what source, where the said Thomas Forsyth lived or resided before he came into the State or Territory of Illinois? If so, state the same, and all your knowledge and information upon the subject.

N. H. PURPLE, *for Complainant.*

Cross interrogatories.

Interrogatory 1st. Please state whether your father and mother were white persons; if you state that your father was not a white person, please state whether he was part white, and what portion of white blood he had, and what nation of Indians he belonged to; and if you state that your mother was not white, or only part white, please state what was her proportion of white blood, and whether she was part Indian.

Interrogatory 2d. If you state that you knew Thomas Forsyth, state if he lived in Peoria as early as 1802, and whether he continued to reside there up to 1812; and did he not from thence to the time of his death reside in Saint Louis, Missouri?

Interrogatory 3d. Did you ever reside in Peoria, Illinois?

Interrogatory 4th. Did you know any other Thomas Forsyth residing at Detroit, Michigan; if so, when and where did he go to, and was he not Indian agent?

H. O. MERRIMAN, *for Defendant.*

STATE OF ILLINOIS,
Rock Island county, ss.

Deposition of Antoine Leclaive, a witness of lawful age, taken before me at my office in the town of Rock Island, county of Rock Island, State of Illinois, on the 29th day of November, A. D. 1850, commencing at ten o'clock of said day and ending the same day, to be used on the trial of a cause pending in the circuit court of the United States of America, for the circuit and district of Illinois, in which John Reynolds, Josiah E. McClure, and John McDougall, are plaintiffs, and Robert Forsyth, is defendant.

To the first direct interrogatory the said witness answering says: My name is Antoine Leclaive; age fifty-two years; reside in Deavenport, in the State of Iowa; occupation farmer.

In answer to 2d direct interrogatory he says: I am acquainted with one Thomas Forsyth; I first saw him at Chicago, when I was a boy; travelled with him to Detroit in the year 1810; I think he was then an Indian trader, and continued in the same business until 1812; he was then appointed Indian agent, which appointment he held until discharged by the Government in the year 1830 or 1831; I knew but little of him afterwards.

In answer to 3d direct interrogatory he says: I have been told that he died while travelling from Chicago to St. Louis, at or near Peoria, on the Illinois river, I think in the year 1834; I am acquainted with the whole of his family; he had four children, John, Robert, Thomas, and Mary; I think John, Thomas, and Mary are dead; Robert lives some 5 or 6 miles from the city of St. Louis, in St. Louis county, Missouri.

4th direct interrogatory. I have an indistinct recollection of having heard (from what source I do not now remember) that Thomas Forsyth resided at Fort Malden, and at Detroit, previous to his coming to the Territory of Illinois.

In answer to first cross interrogatory said witness says: My father was a white person, a Frenchman; my mother was an Indian woman, of the Pottawatomie tribe.

In answer to 2d cross interrogatory he says: At the time I first became acquainted with Mr. Forsyth he lived in Peoria; how long he had resided there I don't know, he left there about the year 1812 for St. Louis, and continued to reside in St. Louis county, Missouri, until his death.

In answer to 3d cross interrogatory he says: I have resided in Peoria, Illinois.

In answer to 4th cross interrogatory he says: I never knew of any other Thomas Forsyth residing at Detroit, Michigan, than the one above spoken of by me. ANTOINE LECLAIVE.

STATE OF ILLINOIS,
Rock Island county.

I, Joseph Conway, commissioner of the circuit court of the United States, for the circuit and district of Illinois, for the county of Rock Is-

land in said State, do hereby certify, that the above deposition of Antoine Leclaive, was taken before me on the 29th day of November, A. D. 1850, at my office in the town of Rock Island county, and State aforesaid, commencing at ten o'clock of said day; that said witness was by me first duly sworn to make full, true, and perfect answers to the interrogatories annexed; that the direct and cross interrogatories were put by me to the witness in the order in which they stand; and the answer to each interrogatory was by me at the time reduced to writing in the order in which *they stand;* that the same was afterwards read, signed, and sworn to by him in my presence; that Ira O. Wilkinson was by me notified of the time and place of taking said deposition, and was present at the taking of the same. The notice hereto annexed is the notice served on him.

JAS. CONWAY,
Commissioner of the U. S. circuit court, for the county of Rock Island, in the State of Illinois.

To J. O. WILKINSON, esq.

DEAR SIR: You are hereby notified that I shall proceed to take the testimony of Antoine Leclaive, at my office in the town of Rock Island, county of Rock Island, State of Illinois, on the 29th day of November, A. D. 1850, commencing at ten o'clock of said day, to be used as evidence on the trial of a certain cause now pending in the United States district court, for the district of Illinois, in which John Reynolds, Josiah E. McClure, and John McDougall, are plaintiffs, and Robert Forsyth is defendant, at which time and place you may attend if you see proper.

JAS. CONWAY,
Nov. 29th, 1850. *U. S. commissioner.*

This notice was served upon me by James Conway, commissioner, this 29th day of November, A. D. 1850.

IRA O. WILKINSON.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall,
vs.
ROBERT FORSYTH.

In the circuit court of the United States, within and for the district of Illinois.

DISTRICT AND STATE OF MISSOURI,
County of St. Louis, sct.

Robert Forsyth, of the said county of St. Louis, being sworn on his oath says, that he is the defendant in the above entitled cause; that he is advised by his counsel, and verily believes, that the testimony of Henry Morin is material and necessary for this deponent, in the defence of the said cause; that said Henry Morin lives in the city of St.

Louis, in the said county of St. Louis, district and State of Missouri, more than one hundred miles from the city of Springfield, in the district and State of Illinois, where the court at which this deponent expects the said cause will be tried is appointed by law to be held. And this deponent further says, that he is informed and believes John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside in the city of Peoria, in the said district and State of Illinois, about one hundred and seventy-five miles from the said city of St. Louis, the place where the examination of said witness is expected to be taken, and that N. H. Purple, esq., the attorney of said plaintiffs also resides in the aforesaid city of Peoria.

ROBERT FORSYTH.

Sworn to and subscribed before me, James J. Purdy, presiding justice of the county court of said county of St. Louis, at said county, this 14th day of November, 1850.

JAMES J. PURDY,
Presiding justice of the St. Louis county court.

DISTRICT AND STATE OF MISSOURI,
County of St. Louis, sct.

Let Henry Morin, the witness named in the within affidavit, be examined de bene esse before me, accordingly, at the office of Fremon and Reber, attorneys at law, No. 49, Pine street, in the city of St. Louis, in the said county of St. Louis, district and State of Missouri, on the twenty-eighth day of November, 1850, and between the hours of eight o'clock in the forenoon and five o'clock in the afternoon of that day; and let ten days' notice be given to the said plaintiffs, Reynolds, McClure, and McDougal, or to N. H. Purple, esq., their attorney, of such examination.

JAMES J. PURDY,
Presiding justice of the St. Louis county court.

SIRS: You are hereby notified that Henry Morin will be examined de bene esse, before me, at the office of Fremon and Reber, attorneys at law, No. 49, Pine street, in the city of St. Louis, in the county of St. Louis, district and State of Missouri, on the twenty-eighth day of November, 1850, and between the hours of eight o'clock in the forenoon and five o'clock in the afternoon of that day, as a witness for the above defendant, according to the act of Congress in such case made and provided, at which time and place you are entitled by law to be present, and put interrogatories to the said witness. Dated at the said city of St. Louis, this 14th day of November, 1850.

JAMES J. PURDY,
A judge of the county court, in and for the county of St. Louis, Missouri.

To John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, or to N. H. Purple, esq., their attorney.

Received copy of above notice, November 18, 1850.
N. H. PURPLE, *for Complainant.*

Interrogatories to be administered to Henry Morin, on the part of complainants, in the chancery, and defendants in ejectment case.

1. Where do you reside; what is your age and occupation; where *was* you born, and where have you lived since, and how long at each place?

2. If you knew Thomas Forsyth, where did you first know him, and where did he reside, and what was his business, occupation, or employment, during the period of your acquaintance with him? State fully and particularly.

3d. Do you not know, or have you not heard, said Thomas Forsyth often say that he came from Detroit, or the neighborhood thereof; and that he was the owner of land at Gross Point, near Detroit?

4th. Did you ever know Major Robert A. Forsyth, formerly of Detroit; was he not the nephew and agent and attorney in fact for the said Thomas Forsyth; and have you not heard from said Thomas Forsyth that such was the case, and that he had sold land for him at Gross Point, near Detroit?

5th. Have you not heard the defendant, Robert Forsyth, say that his father, Thomas Forsyth, formerly resided at Detroit, or the neighborhood thereof?

6. If you say that Thomas Forsyth lived at Peoria, describe the land on, and the house in, which he lived; how far from the Illinois river; whether his land was enclosed or not; and how much there was of it; and who were his nearest neighbors; and on which side of him they severally resided?

7. Have you had any conversation with the said Robert Forsyth, in relation to your testimony in this cause, previous to your being sworn in the same?

8. Are you acquainted with Mrs Maria Louisa Mette, of St. Louis, Mo.; if so, state *state* whether she is or is not very old, infirm, feeble, and ignorant; and whether she is not so to such an extent that very little reliance can be placed upon her statements or testimony.

9. Are you a Frenchman; can you speak or understand English perfectly; can you read or write?

N. H. PURPLE.
Complainants' solicitor.

Be it remembered, that on 14th day of November, eighteen hundred and fifty, at the city of St. Louis, county of St. Louis, State and district of Missouri, Robert Forsyth personally appeared before me, James J. Purdy, a judge of the county court in and for said St. Louis county, State aforesaid, says that he, said Robert Forsyth, was and is the defendant in a suit pending in the circuit court of the United States, in the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougal are plaintiffs; that the testimony of Henry Morin was material and necessary for the defendant in the prosecution of said

suit; and that the said Henry Morin lives in the city of St. Louis, in the State and district of Missouri, more than one hundred miles distant from the city of Springfield, in the district of Illinois, where the court at which the said defendant expects said cause will be tried is appointed by law to be held; and that the said John Reynolds, Josiah E. McClure, and John McDougal, plaintiffs, reside in the city of Peoria, in the Illinois district, about one hundred and seventy-five miles from the city of St. Louis, in the county of St. Louis, Missouri district, where the examination of said witness is expected to be taken; and that *and that* N. H. Purple, esq., attorney for said plaintiffs, also resides at the city of Peoria, in the said district of Illinois; and that said Robert Forsyth requested me that said Henry Morin be examined according to the directions of the act of Congress in such cases made and provided. Whereupon I ordered that *that* the said Henry Morin be examined de bene esse before me, at the office of Fremont & Reber, No. 49, Pine street, in the city of St. Louis, in the county of St. Louis, district and State of Missouri, on the twenty-eighth day of November, between eight o'clock in the forenoon and five o'clock in the afternoon of said day; and that ten days' notice be given to *to* the said John Reynolds, Josiah E. McClure, and John McDougal, or N. H. Purple, esq., their attorney, of such examination, to the end that *that* they might, should they see fit, be present at the examination, and put interrogatories. And having satisfactory proof that notice had been given to N. H. Purple, esq., said plaintiffs' attorney, and the said Robert Forsyth, in person and by attorney, appears, and at said place and time, and between said hours, I therefore then and there proceeded to the said examination of said witness.

And the said Henry Morin, being by me carefully examined, and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith:

I am sixty-five years of age; I was born in St. Louis, at the place I now reside. I knew Thomas Forsyth; I was well acquainted with him; he was the father of Robert Forsyth, the defendant in this suit. I knew the said Thomas Forsyth here in St. Louis. I knew another man by the name of Thomas Forsyth about thirty-odd years ago, whilst I was voyaging up the Mississippi. The last mentioned Thomas Forsyth was trading with the Indians between St. Louis and the Upper Mississippi. I was in his company twice whilst he was going up the Mississippi river. I am not positive how old the last mentioned Thomas Forsyth was at the time I knew him, but he appeared to me to be about forty years old. He voyaged towards Detroit and Canada. He had Canadians in his employment when I knew him; and, from all that I have heard and seen of him, I believe he was originally from the neighborhood of Detroit.

Interrogatories by solicitors for complainants.

Answer to first interrogatory. I reside here in St. Louis; I am sixty-

five years of age; I was a voyager until last year; since then I work by the day. I think I was born 1785. I have always made St. Louis my place of residence, though I have voyaged in a great many places.

Answer to second interrogatory. I knew Thomas Forsyth, the father of Robert Forsyth, here in St. Louis, and at his plantation near St Louis; his only occupation, that ever I knew of, was that of a farmer.

Answer to third interrogatory. I never heard Thomas Forsyth, the father of Robert Forsyth, say that he came from Detroit, or the neighborhood thereof, or that he was the owner of any property at Gross Point.

Answer to fourth interrogatory. I never knew Major Robert A. Forsyth, nor did ever I hear Thomas Forsyth speak of him, or say that *that* he was any relation of his, or agent or attorney for the sale of any property whatever; I was not intimate enough with said Thomas Forsyth to speak of such things.

Answer to fifth interrogatory. No; I have never heard the defendant, Robert Forsyth, say that his father resided at Detroit, or the neighborhood thereof.

Answer to sixth interrogatory. I have never said that Thomas Forsyth lived at Peoria. I never was there myself.

Answer to seventh interrogatory. The only conversation I had [with] Robert Forsyth in relation to my testimony, previous to my being sworn, is that said Forsyth asked me if I had ever known his father, Thomas Forsyth. I answered yes, and that I had also known another man by that name. He then said he would want to take my testimony.

Answer [to] eighth interrogatory. I am not acquainted with Madm. Marie Louise Mette, of St. Louis, Missouri.

Answer to ninth interrogatory. I am a native of St. Louis; I can understand the English, but very imperfectly; speak but little; I cannot read nor write.

I know nothing further that would be of benefit or advantage to either plaintiff or defendant. And further this deponent saith not.

his
HENRY × MORIN.
mark.

Sworn and subscribed to before me, this 28th day of November, 1850.

JAMES J. PURDY,
Judge of the St. Louis county court, State of Missouri.

And I do further certify, that the preceding deposition of Henry Morin was reduced to writing by me, and signed by him *by him* in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

JAMES J. PURDY,
Judge of the St. Louis county court, State of Missouri.

In the circuit court of the United States, within and for the district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall, vs. ROBERT FORSYTH. } In chancery.

DISTRICT AND STATE OF MISSOURI,
County of St. Louis, sct.

Robert Forsyth, of the said county of St. Louis, being sworn on his oath, says, that he is the defendant in the above entitled cause; that he is advised by his counsel, and verily believes, that the testimony of Joseph Aubuchon is material and necessary for this deponent in the defence of the above cause; that said Joseph Aubuchon lives in the village of Florisant, in said county of St. Louis, district and State of Missouri, more than one hundred miles from the city of Springfield, in the district and State of Illinois, where the court, at which the deponent expects the said cause will be tried, is appointed by law to be held. And this deponent further says, that, as he is informed and believes, John Reynold, Josiah E. McClure, and John McDougal, the above plaintiffs, reside at the city of Peoria, in the said district and State of Illinois, about one hundred and seventy miles from the said village of Florisant, in said county of St. Louis, the place where the examination of said witness is expected to be taken; and that he is informed, and believes, N. H. Purple, esq., the attorney of said plaintiffs, also resides at said city of Peoria.

ROBERT FORSYTH.

Sworn to and subscribed before me, James J. Purdy, presiding justice of the county court of said county of St. Louis, at said county, this 2d day of November, 1850. JAMES J. PURDY,
Presiding justice of the St. Louis county.

DISTRICT AND STATE OF MISSOURI,
County of St. Louis, sct.

Let Joseph Aubuchon, the witness named in the within affidavit, be examined de bene esse, before me, accordingly, at his residence in the village of Florisant, in said county of St. Louis, district and State of Missouri, on the 2d day of November, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of the second day of November aforesaid.

JAMES J. PURDY,
Presiding justice of the St Louis county court.

Be it remembered that, on this second day of November, in the year eighteen hundred and fifty, Robert Forsyth personally appeared before me, James J. Purdy, presiding justice of the county court in and for St. Louis county, State and district of Missouri, and made oath that

he, the said Robert Forsyth, was and now is defendant in a suit depending in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougal are plaintiffs, and the testimony of Joseph Aubuchon is *a* material and necessary for the defendant in the prosecution of said suit; that the said Joseph Aubuchon lives in the village of Florisant in said county of St. Louis, in the State and district of Missouri, more than one hundred miles from the city of Springfield, in the State and district of Illinois, where the court at which the defendant expects the said cause will be tried is appointed by law to be held; that the said John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside in Peoria, in the State and district of Illinois, about one hundred and seventy miles from the village of Florisant, in said county of St. Louis, the place where the examination of said witness is expected to be taken; and that he is informed and believes N. H. Purple, esq., attorney of said plaintiffs, also resides at the city of Peoria, in the said district of Illinois; and that the said Robert Forsyth requested me that the said Joseph Aubuchon might be examined according to the directions of the act of Congress in such case made and provided; whereupon I ordered that the said Joseph Aubuchon be examined de bene esse, before me, at his residence in the village of Florisant, in said county of St. Louis, district and State of Missouri aforesaid, on the second day of November, eighteen hundred and fifty, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day; I proceeded with said examination of said witness at said time and place. And the said Joseph Aubuchon, being by me carefully examined, and cautioned, and duly sworn, to testify the truth, the whole truth, and nothing but the truth, saith: I was eighty-two years of age on the 15th day of last month; I was born in Kaskaskia, in Illinois; I live here in Florisant, in the county of St. Louis, State of Missouri. It is fifty-six or fifty-seven years last spring since I was married; I knew John Baptiste Mallette at Peoria, in Illinois, at the outlet of little Lake Peoria, on the left hand side as you go up; he had a house there which was known as Mallette Fort; it is sixty-three or sixty-four years ago that I went to Peoria in going to Mackinaw; then was the first time I saw said John Baptiste Mallette; I continued to know him there for six or seven years after that at the same place; I stopped there every voyage I made to Mackinaw during said time; I followed at that time the business of and was *of* voyager on the river. I know [nothing] further that would be of benefit or advantage to either plaintiffs or defendant; and further this deponent says not.

his
JOSEPH x AUBUCHON.
mark.

Sworn and subscribed to before me, this second day of November, 1850.

JAMES J. PURDY,
Presiding judge of the St. Louis county court.

And I do further certify, that the preceding deposition was reduced to writing by me and signed by said Aubuchon, deponent, by his mark, in my presence; and that I am not of counsel nor am I interested in the event [of] the said suit in any way whatever.

JAMES J. PURDY,
Presiding judge of the St. Louis county court, Missouri district.

DISTRICT AND STATE OF MISSOURI,
County of St. Louis, sct.

In the circuit court of the United States, in and for the district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougal,
vs.
ROBERT FORSYTH.

Robert Forsyth, of the said county of St. Louis, being sworn, on his oath says, that he is the defendant in the above entitled cause; that he is advised by his counsel, and verily believes, that the testimony of Sarah Bouche is material and necessary for this deponent in the defence of the above cause; that said Sarah Bouche lives in the township of Carondelet, in the said county of St. Louis, district and State of Missouri, about twelve miles southward from the city of St. Louis, and more than one hundred miles from the city of Springfield, in the district and State of Illinois, where the court at which this deponent expects the said cause will be tried is appointed by law to be held; and this deponent further says, that, as he is informed and believes, John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside in the city of Peoria, in the said district and State of Illinois, about one hundred and eighty-five miles from the residence of said Sarah Bouche, the place where the examination of said witness is expected to be taken; and that N. H. Purple, esq., the attorney of said plaintiffs, also lives in said city of Peoria.

ROBERT FORSYTH.

Sworn to and subscribed before me, James J. Purdy, presiding justice of the county court of said county of St. Louis, at said county, this 23d day of November, 1850.

JAMES J. PURDY,
Judge of the St. Louis county court, Missouri.

Let Mary Bouche, the witness named in the within affidavit, be examined de bene esse before me, accordingly, at the residence of Oliver Delore, in Carondelet township, in said county of St. Louis, district and State of Missouri, about twelve miles southward from the city of St. Louis, on the twenty-third day of November, 1850, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day.

JAMES J. PURDY,
Judge of St. Louis county court, Missouri district.

Be it remembered, that on this twenty-third day of November, eigh-

teen hundred and fifty, Robert Forsyth appeared before me, James J. Purdy, a judge of the St. Louis county court, in the district and State of Missouri, and made oath that he, the said Robert Forsyth, was and now is the defendant in a suit depending in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougal, are plaintiffs, and that the testimony of Sarah Bouche is material and necessary for said Robert Forsyth, defendant, in the prosecution of said suit; that the said Sarah Bouche lives in Carondelet township, in the county of St. Louis, in the State of Missouri, more than one hundred miles from the city of Springfield, in the district of Illinois, where the court at which the said deponent expects the said cause will be tried, and is appointed by law to be held; that the said John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside in Peoria, in the district of Illinois, about one hundred and eighty miles distant from said residence of Sarah Bouche, in Carondelet township, in the county of St. [Louis,] aforesaid; and that he is informed and believes that N. H. Purple, esq., attorney for said plaintiffs, also lives in said city of Peoria, in said Illinois district, one hundred and eighty-five miles distant as aforesaid; that the said Robert Forsyth requested me that the said Sarah Bouche might be examined before me, according to the directions of the act of Congress in such cases made and provided. Whereupon I ordered that said witness be examined before me de bene esse, at residence of Oliver Delore, in Carondelet township, in said St. Louis county, district and State of Missouri, about twelve miles southward from the city of St. Louis, in said county, on the twenty-third day of November, eighteen hundred and fifty, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon. I then and there proceeded with the examination of said witness; and the said Sarah Bouche, being by me carefully examined, and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith: I am fifty-five years of age; was so on seventeenth day of March last. I was born in Canada; I lived two years in Peoria, on the Illinois river. It is thirty-eight or thirty-nine years ago since I removed from there to St. Louis county. I reside about twelve miles southward from the city of St. Louis, in said county. The manner of conveying real estate at said Peoria, at the time I was there, was merely by taking possession of the lot of land so purchased and sold without any deed of conveyance or writing. My husband purchased property in said Peoria in the same way. I knew Thomas Forsyth, the father of Robert Forsyth, the defendant. I came from Canada with said Thomas Forsyth to Peoria, where he resided. I knew another Thomas Forsyth; he came to St. Louis about twenty or thirty years ago; his age I supposed to be then thirty or forty years. I understood he come from Detroit or Canada. I [know] nothing further, that I recollect of, that would be any benefit or advantage to either plaintiffs or defendant. And further this deponent saith not.

her
SARAH x BOUCHE.
mark.

Sworn and subscribed to before me, this 23d day of November, 1850. JAMES J. PURDY,
Judge of the county court for St. Louis county, State of Missouri.

And I do further certify, that the foregoing deposition was reduced to writing by me, and by the said Sarah Bouche, deponent, and that I am not of counsel or attorney for either party to the suit, nor am I interested in the event thereof. JAMES J. PURDY,
Judge of the St. Louis county court, State of Missouri.

In the circuit court of the United States, in and for the district of Illinois.

JOHN REYNOLDS, Josiah E. McClure, and John McDougall,
vs.
ROBERT FORSYTH.

Sir: You are hereby notified that Lisette Mette will be examined de bene esse, before me, at her residence, on the south side of Washington avenue, between Fourth and Fifth streets, in the city of St. Louis, in the county of St. Louis, district and State of Missouri, on the thirtieth day of October, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day. And Antoine Smith and Theodore Papin, at the office of Fremon and Reber, attorneys at law, No. 49, Pine street, in the said city of St. Louis, on the first day of November, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, (all as witnesses for the above defendant,) according to the act of Congress in such case made and provided; and if such examination be not completed on the above days, the same will be respectively continued from day to day, at the same place and between the same hours, until completed; at which times and places you are entitled by law to be present, and put interrogatories to said witnesses.

Dated at the city of St. Louis aforesaid, this 14th day of October, 1850.

To the above named plaintiffs, or N. H. Purple, esq., their attorney.
JAMES J. PURDY,
Presiding justice of the county court of the county of St. Louis, Missouri district.

Rec'd copy of within notice, Oct. 18, 1850.
N. H. PURPLE.

DISTRICT OF MISSOURI,
County of St. Louis, sct.

Robert Forsyth, of the said county of St. Louis, being duly sworn, on his oath says, that he is the defendant in the above entitled cause;

that he is advised by his counsel, and verily believes, that the testimony of Mrs. Lisette Mette, Antoine Smith, and Theodore Papin, is material and necessary for this deponent in the defence of the above cause; that said Lisette Mette and Theodore Papin live in the city of St. Louis, in said county of St. Louis, and district of Missouri; and said Antoine Smith lives near Florisant, in said county of St. Louis, and every of them lives more than one hundred miles from the city of Springfield, in the said district of Illinois, where the court at which this deponent expects the said cause will be tried *as* appointed by law to be held.

And this deponent further says, that, as he is informed and believes, John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside at the city of Peoria, in said district of Illinois, about one hundred and seventy miles from the said city of St. Louis, the place where the examination of said witnesses is expected to be taken. And that, as he is also informed and believes, N. H. Purple, esqr., the attorney of said plaintiffs, also resides at said city of Peoria, in said district of Illinois.

ROBERT FORSYTH.

Sworn to and subscribed before me, James J. Purdy, presiding justice of the county court of the county of St. Louis, in said district of Missouri, this 14th day of October, 1850, at said county of St. Louis.

JAMES. J. PURDY,
Presiding justice of the county court for St. Louis county, Missouri district.

DISTRICT OF MISSOURI,
County of St. Louis, sct.

Let Mrs. Lisette Mette, Antoine Smith, and Theodore Papin, the witnesses named in the above and foregoing affidavit, be examined de bene esse before me, accordingly; the said Lisette Mette, at her residence on the south side of Washington avenue, between Fourth and Fifth streets, in the city of St. Louis, in the county of St. Louis, district and State of Missouri, on the thirtieth day of October, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day; and the said Antoine Smith and Theodore Papin, at the office of Fremon and Reber, attorneys at law, No. 49, Pine street, in the said city of St. Louis, on the first day of November, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day; and let ten days' notice be given to said plaintiffs, Reynolds, McClure, and McDougal, or to N. H. Purple, esqr., their attorney, of said examinations.

JAMES J. PURDY,
Presiding justice of the county court of the county of St. Louis, in district of Missouri.

Be it remembered, that on the 14th day of October, in the year eigh-

teen hundred and fifty, Robert Forsyth personally appeared before me, James J. Purdy, presiding judge of the county court in and for Saint Louis county, district and State of Missouri, and made oath that he, the said Forsyth, was and is defendant in a suit depending in the circuit court of the United States, for the district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougal are plaintiffs, and the testimony of Madm. Lisette Mette and Antoine Smith are material and necessary for the said defendant in the prosecution of said suit; that the said Lisette Mette lives in the city of St. Louis, in the district and State of Missouri, and the said Antoine Smith lives near Foresant, in the county of St. Louis, in the Missouri district, one hundred miles from the city of Springfield, in the said district and State of Illinois, where the court, at which the said Robert Forsyth, the defendant, expects the said cause to be tried, was appointed by law to be held; that said John Reynolds, Josiah E. McClure, and John McDougal, the above named plaintiffs, reside in the city of Peoria, in the district [of] Illinois, about one hundred and seventy miles distant from the city of St. Louis, in the county of St. Louis, said Missouri district, the places where the examination of said witnesses are expected to be taken; and that the said A. H. Purple, esqr., the attorney of said plaintiffs, also resides in the city of Peoria, in said Illinois district; and that the said Robert Forsyth, defendant, requested me that the said Lisette Mette and Antoine Smith might be examined according to the directions of the act of Congress in such cases made and provided. Whereupon I ordered that the said Lisette Mette should be examined de bene esse before me, at her residence, on the south side of Washington avenue, between Fourth and Fifth streets, in the city of St. Louis, in the county of St. Louis, district and State of Missouri, on the thirtieth day of October, eighteen hundred and fifty, and between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day; and the said Antoine Smith, at the office of Fremont and Reber, attorneys at law, No. 49, Pine street, in the said city of St. Louis, on the first day of November, eighteen hundred and fifty, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said first day of November; and that ten days' notice should be given to said plaintiffs, Reynolds, McClure, and McDougal, or to A. H. Purple, esqr., their attorney, of such examination, to the end, that they might, should they see fit, be present at the examination and put interrogatories. Satisfactory proof of notice being had, and said witness being present in said State or district, to wit, Madm. Lisette Mette, on the 30th day of October, 1850, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of that day, at her residence on Washington avenue, in said city of St. Louis, and county of St. Louis, and the said Antoine Smith, at the office of Fremont and Reber, No. 49, Pine street, on the 1st day of November, 1850, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon of said day, at said place, in city of St. Louis, county of St. Louis, in said Missouri district. I therefore proceeded then and there with said examinations of witnesses aforesaid.

And the said Lisette Mette being by me carefully examined, and cautioned, and duly sworn to testify the truth, the whole truth, and nothing but the truth, saith:

I am seventy-two years old; I now reside at this place, in the city of St. Louis, in the State of Missouri; I am a native of Montreal in Canada; I am the widow [of] Jacques Mette; I have resided sometimes at Fort Clark or Peoria in Illinois, some time in Kaskaskia, and some time in Edwardsville, also in the State of Illinois, and the remainder of the time in St. Louis; I knew Thomas Forsyth; I became acquainted with him a year or two before he fixed his residence in Peoria; when I first became acquainted with him he was trading with the Indians on the Upper Mississippi; I was residing in Peoria when said Thomas Forsyth came there to live; he bought an improvement and the lot of ground adjoining the lot owned by my deceased husband; the improvements consisted of a house for a dwelling, a stable, hen house, and a barn; in the rear also, a warehouse on said lot; the lot purchased by said Forsyth was north of my husband's lot—when I say it was north, I mean it was up the river; said Forsyth bought said lot of Jean Marie Coursole, and Coursole bought the same lot of Jean Baptiste Mallette; when said Thomas Forsyth took possession of said lot, both said Coursole and Mallette *where both* living in Peoria; Thomas Forsyth is dead and left three children, named Robert, Mary, and Thomas; said Robert was born in Peoria on the same lot that his father lived and had purchased of said Coursole; I was present at his birth; the time said Thomas Forsyth purchased said lot of said Coursole was many years before the war of 1812; during that time the ordinary way of transferring a lot and improvements was by a mere verbal sale; the purchaser would pay the price agreed upon and take possession of the lot sold without any writing. I do not recollect any thing that would be of any benefit or advantage to either plaintiffs or defendant. And further this deponent saith not.

her
LISETTE x METTE.
mark.

Sworn and subscribed to before me, this 30th day of October, 1850.

JAMES J. PURDY,
Presiding judge of the St. Louis county court.

And I do further hereby certify, that the preceding deposition was reduced to writing by me in deponent's presence, and signed by said Lisette Mette, by her mark, in my presence, and I am not of counsel or attorney for either of the parties to said suit, nor am I interested in the event thereof.

JAMES J. PURDY,
Presiding judge of the St. Louis county court.

And the said Antoine Smith, being carefully examined, and cautioned, and duly sworn, to testify the truth, the whole truth, and nothing but the truth, saith:

I am now in my seventy-ninth year of age; I have resided in the county of St. Louis, State of now Missouri, going on sixty-two years; I knew Thomas Forsyth, the father; Robert Forsyth, the defendant in this and above entitled suit; I knew him in Montreal, in Canada, where I was born; I knew him there about sixty-five or sixty-seven years ago After I left Montreal, I first saw said Thomas Forsyth at Mackinaw, about sixty-one years ago; he was Indian trader on the Mississippi and Illinois rivers; I saw him every year, and knew him well until he removed into Peoria, and from that until he removed to, and resided in, St. Louis, Missouri. I was sixty odd years ago a voyage; I knew Jean Baptiste Mallette full sixty years ago at Peoria; he had a fort round his house, and it was known as Mallette's fort, situated at the outlet of lake Peoria; I knew him there, and it, as his residence, for ten or twelve years, the said lot on which said Mallette resided; he, said Mallette, made the improvements on his said lot, and is the same lot on which I saw said Thomas Forsyth residing on as aforesaid. Said Thomas Forsyth left three children—two sons and one daughter—to wit, Robert Forsyth, the defendant, Mary and Thomas; Mary died without issue and unmarried, so far as I knew. I do not recollect any thing further that would be any benefit or advantage to either plaintiffs or defendant. And further this deponent saith not.

his
ANTOINE x SMITH.
mark.

Sworn and subscribed to before me, this 1st day of November, 1850.

JAMES J. PURDY,
Presiding judge of the St. Louis county court.

And I do further certify, that the preceding deposition was reduced to writing by me in the presence of Aubuchon, deponent, and it was signed by him making his cross mark thereto in my presence and by writing his name; and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof.

JAMES J. PURDY.
Presiding judge of the St. Louis county court.

This day, to wit, December 13th, 1850, on motion of defendant's solicitor, it is ordered by the court that he have leave to open and file his deposition herein, which is as follows, to wit:

Be it remembered, that on the thirteenth day of November, one thousand eight hundred and fifty, at Chicago, in the State and district of Illinois, application was made to me, George W. Meeker, a commissioner appointed under the laws of the United States to take affidavits and acknowledgments of bail, upon the affidavit of H. O. Merriman, stating that he was the agent and attorney of Robert Forsyth, who is defendant in a certain chancery cause now depending in the circuit court of the United States for the district of Illinois, in which John Reynolds, Josiah E. McClure, and John McDougal, are complainants; and that John H. Kinzie is a material witness for the de-

fendant, and that his testimony is material and necessary for the defendant in his defence of said cause; that the said Kinzie resides at Chicago, more than a hundred miles from Springfield, where the court at which the said cause is expected to be tried is appointed by law to be held; and that the defendants, and their solicitor, N. H. Purple, reside more than a hundred miles from the city of Chicago, where said deposition is to be taken; and I was requested, on behalf of the said Robert Forsyth, that the said John H. Kinzie might be examined according to the act of Congress in such case made and provided.

Whereupon I ordered that the said John H. Kinzie should be examined, de bene esse, before me at my office in Chicago aforesaid, instanter; and the said John H. Kinzie appearing before me at my office in Chicago on the thirteenth day of November, eighteen hundred and fifty, and the said Robert Forsyth also appearing by attorney, and no one appearing on behalf of the complainants, I have therefore proceeded with the examination; and the said John H. Kinzie being carefully examined, and cautioned, and duly sworn, to testify the whole truth, and nothing but the truth, saith, in answer to the interrogatories propounded to him, as follows:

Interrogatory 1. Do you know the defendant in this suit? If yea, how long have you known him?

Answer 1. I do; I have known him about twenty-four years; he is my cousin.

Interrogatory 2. Were you acquainted with Thomas Forsyth, the father of the defendant? And is the said Thomas Forsyth now living? If not, do you know when and where he died? Answer particularly.

Answer 2. I was acquainted with him; he was my uncle; he is not now living. I think he died in the year eighteen hundred and twenty-four. I think he died in St. Louis, State of Missouri.

Interrogatory 3. How many children had Thomas Forsyth?

Answer 3. He had four children--John, Thomas, Robert A., the defendant in this suit, and Mary; the three last named were living when the father died.

Interrogatory 4. State if you know the place of residence of the said Thomas Forsyth, the father of the said defendant, during his lifetime. (G. W. M.)

Answer 4. Since 1810, (as far back as I can recollect,) he has resided in Peoria, in the State of Illinois, and in Rock Island, in same State, and St. Louis, in Missouri; since I knew him, he has never resided elsewhere.

Interrogatory 5. Did you ever know him, the said Thomas Forsyth, to live in Gross Point, in Michigan, or at any other place in Michigan?

Answer 5. I did not.

Interrogatory 6. Since you first knew him, would you have known it had he lived in Michigan?

Answer 6. I would have known it.

Interrogatory 7. Were you acquainted with any other Thomas For-

syth than the father of the defendant? If so, state where he lived and how long you have been acquainted with him.

Answer 7. I knew a Thomas Forsyth, a son of the late William Forsyth. I first became acquainted with him in 1812. He resided at Detroit, Michigan, a part of the time; at another time he lived at Sandwich, Upper Canada, nearly opposite Detroit; and afterwards, and at the time of his death, he resided at Fort Wayne, Indiana. He must, I think, have died some fifteen years since.

Interrogatory 8. Do you know James Kinzie, who lives at Racine, in Wisconsin? If so, state if you know where he was raised, and at what time he went to Detroit to live.

Answer 8. I do know him; he is a half brother of mine. He was raised in Giles county, Virginia; he went to Detroit in the fall of 1815 or in the spring of 1816 to live. He shortly afterwards, in the summer of 1816, came to Chicago, and has ever since lived in Illinois and Wisconsin.

JNO. H. KINZIE.

And I do further certify, that the preceding deposition was reduced to writing by me, in the presence of said witness, and was signed by him in my presence, and that I am not of counsel or attorney for either of the parties to the said suit, nor am I interested in the event thereof

GEO. W. MEEKER, *Com.*

This day, to wit, December 20th, 1850, came the complainants by their solicitors, and filed their exceptions to the defendant's depositions herein, which are as follows, to wit:

The complainants, by their solicitors, come and except to the deposition of Henry Morin, taken by the defendant in this cause, or to so much of the same as states that "from all that I have seen and heard of him (referring to one Thomas Forsyth) I believe he was originally from the neighborhood of Detroit."

To the whole of the deposition of Sarah Bouche.

1st. Because no order was made by any proper or competent officer to take her deposition. (Objection overruled.)

2d. To that part of said deposition of said Sarah Bouche which states, that the manner of conveying real estate in Peoria at the time I was there was merely by taking possession of said lot of land so purchased and sold, without any deed of conveyance or writing. My husbanp purchased property in Peoria in the same way. (Reserved for hearing.)

3d. To that part of the testimony of said Sarah Bouche, in which she states, in relation to one Thomas Forsyth, I understood he came from Detroit or Canada. (Objection sustained.)

To all that part of the deposition of Lisette Mette which relates to the purchase of a lot or improvements in Peoria, and to the sale or transfer of any such lot in the manner stated in her said deposition; it appearing from said deposition that such sales and transfers were by parol

and not by deed. And also to all that part of her said deposition which states that, during that time the ordinary way of transferring a lot and improvements was by a mere verbal sale. The purchaser would pay the price agreed upon and take possession of the lot sold without any writing. (Reserved for the hearing.)

And insist that the said depositions and the portions thereof above referred to, are irrelevant and illegal, and that the same should be suppressed.

The deposition of John H. Kinzie, for the following reasons:

1st. Because there is no affidavit on file in the case showing the materiality of the witness. (Overruled.)

2d. Because there is no order for the taking said deposition by any officer or other person authorized by law to make the same. (Objection overruled.)

The complainants also except to the 5, 6, and 8th interrogatories on the part of the defendant, and the answers to the same, upon the ground that the said interrogatories are leading. (Objection overruled.)

This day, to wit, December 20th, 1850, came the defendant by his solicitor, and filed his exceptions to the complainants' depositions herein, which are as follows, to wit: The exceptions of said defendant to the depositions of Norman H. Purple, James Abbott, Lewis Cass, and B. B. Circhival, and Antoine Le Claive, on file in this cause, taken on behalf of complainants.

Said defendant, for cause of exception to said depositions, says and assigns the following:

1st. Said depositions are severally improperly taken and in cases not warranted by the laws or rules of this court. (Exception withdrawn.)

2d Said depositions are not, nor any of them, properly certified according to law. (Exception withdrawn.)

3d. That part of the evidence contained in the deposition of James Abbott, on page 2 of his deposition, and embracing the 4th, 5th, 6th, and 7th, and also the 16th, 17th, 18th, 19th and 20th lines from the top. Also that part of said deposition of said Abbott, embracing the last three lines on said page. The said evidence being irrelevant, incompetent, and argumentative, and should be suppressed (Objection overruled.)

4th. Said defendant also excepts to that portion of the deposition of Lewis Cass as follows, to wit: From witness's acquaintance with the said Thomas Forsyth, and from his recollection of the act of Congress entitled an act regulating grants of land in the Territory of Michigan, approved the third day of March, 1807, and from an examination, this day made, of the American State Papers, volume one, pages 460 and 461, and 493, and from the further fact that Major Robert A. Forsyth, who was the nephew of the said Thomas Forsyth, was the private secretary of the witness for thirteen years, he has no doubt that the said Thomas Forsyth, who he knew at St. Louis and other places before mentioned, was the same Thomas Forsyth to whom claims number 618 and number 619, as appears by the said State Papers and the report of the commissioners appointed under the said act, *to* have been confirmed

to the said Thomas Forsyth under said act; said evidence being improper, incompetent, and argumentative, and the opinion of said witness, as therein expressed, is derived from and based upon improper facts and sources, and should be suppressed. (Objection overruled.)

5th. Said defendant excepts to that portion of the deposition of B. B. Kerchival in these words, "has heard and believes that Thomas Forsyth, the elder, had grants of land confirmed to him in Detroit, or vicinity, in the year 1808 or 1810;" said evidence being incompetent and improper, and should be suppressed. (Objection sustained.)

6th. Said defendant also excepts to the deposition of said Le Claive, and says that he is an incompetent witness, being half Indian. (Objection overruled.)

7th. The answer of said Le Claive to the 4th direct interrogatory is only from hearsay, and incompetent evidence. (Objection sustained.)

Copies of, and power of, attorney.

The deeds and exhibits attached to the deposition of N. H. Purple are incompetent evidence, and inadmissible. (Reserved to hearing.)

H. O. MERRIMAN, *for defendant.*

This day, to wit, December 25th, 1850, the following order was made of record:

This day came the said defendant, by his solicitor, and entered his motion for leave to amend his answer herein.

This day, to wit, December 26th, 1850, the following order was made of record:

This day came the defendant, by his solicitor, and by leave of the court files his amended answer herein.

This day, to wit, December 26th, 1850, in pursuance of the aforesaid order, the defendant filed his amended answer herein, which is as follows, to wit:

The amended answer of Robert Forsyth to the amended bill of said complainants.

This respondent further answering states, in answer to the —— interrogatory in said bill, that he has no knowledge or information in relation to the said pretended title of said complainants to said premises claimed by them, than as stated by him in his answer on file herein.

This respondent further answering admits, that said Maillet died in or about the year 1802, at Peoria, Illinois, and admits that no person except said Thomas Forsyth presented *to* or filed any claim to said lot No. seven (7) in the village of Peoria, under said act of 15th May, 1820; but he denies that, according to the best of respondent's knowledge, information, and belief, the allegation in said bill that no legal representative of said Maillet, in pursuance of said act of 15th May, 1820, filed his claim with the register of the land office at Edwardsville; and, on the contrary, insists that said Thomas Forsyth was a legal representative of said Maillet, and by the act of 15th May, 1820,

authorized to make said claim in the manner in which it is alleged in said bill said Thomas Forsyth made said claim, as respondent verily believes.

Respondent admits that said claim and said village of Peoria were surveyed by Joseph C. Brown, deputy surveyor within the States of Illinois and Missouri, at or about the time alleged in said bill, and insists that said survey was made in pursuance of said act of Congress of 3d March, A. D. 1823, and that by said survey said Thomas, or his legal representatives, under the said settlement of said Maillet, and the purchase from him in manner stated in respondent's original answer herein, became entitled to a patent for said lot No. seven, as respondent is advised by counsel, and verily believes.

And now, having fully answered said bill and amended bill, he, respondent, prays to be hence dismissed, with his costs, &c.

LOGAN & MERRIMAN,
Solicitors for defendant.

UNITED STATES OF AMERICA,
District and State of Illinois, ss.

Robert Forsyth, being first duly sworn, deposes and says, that *that* the matters stated in the foregoing amended answer, so far as stated to be upon his own knowledge, are true; and such as are stated to be upon the information of others he is informed and believes to be true.

ROBERT FORSYTH.

Subscribed and sworn to this 25th day of December, A. D. 1850, before me.

WM. POPE,
Com'r circuit court, U. S. district, Illinois.

And the said complainants, for replication to the within amended answer, say, that they will aver and maintain their said bill and amended bill to be true, and that said answer is untrue, uncertain, and insufficient; and this they are ready to verify, &c. Wherefore they pray as they have heretofore prayed, &c.

N. H. PURPLE,
For complainants.

This day, to wit, December 27th, 1850, the following order was made of record:

On motion of complainants' solicitors, and cause shown, it is ordered that the time for taking depositions in this cause be extended for the period of five months; within which period either party may take depositions, pursuant to the act of Congress and the rules of this court. It is further ordered that the complainants have leave to cross examine John H. Kinzie, whose deposition was taken in this cause without notice.

This day, to wit, January 6th, 1851, the following order was made of record:

By agreement it is ordered that this cause be continued.

This day, to wit, July 14th, A. D. 1851, on motion of complainants' solicitors, it is ordered by the court that they have leave to open and file their depositions herein, which are as follows, to wit:

Take notice, that, pursuant to an order of George T. Metcalf, esq., United States commissioner for Illinois, residing in Peoria county, the deposition of Ralph Hamlin and Stephen French, of the county of Peoria, Illinois, will be taken at the office of the said George T. Metcalf, in Peoria aforesaid, on the 15th day of February, A. D. 1851, at nine o'clock in the forenoon of said day, when and where you are requested to attend and cross examine said witnesses.

Peoria, January 24th, 1851.

N. H. PURPLE,
Complain'ts' solicitor.

H. O. MERRIMAN, esq.,
Defendant's solicitor.

Received a copy of above notice January 24, 1851.

H. O. MERRIMAN,
Attorney for R. Forsyth.

STATE OF ILLINOIS,
Peoria county.

The United States of America, to the sheriff or any constable of said county, greeting:

You are hereby commanded to summon Ralph Hamlin and Stephen French to appear before me at my office, in the city and county of Peoria, at 9 o'clock, a. m., on the 15th day of February, A. D. 1851, then and there to testify and give evidence on behalf of the complainants in a certain suit in chancery now pending in the circuit court of the United States, for the State and district of Illinois, wherein John Reynolds, Josiah E. McClure, and John McDougal, are complainants, and Robert Forsyth is defendant; and make due return of this writ.

Witness George T. Metcalf, commissioner of said United States court, this 25th day of January, A. D. 1851.

GEO. T. METCALF,
Commissioner.

This day, to wit, February , 1851, came the said constable, who executed service of the aforesaid writ, and returned the same with his endorsement thereon, which is as follows, to wit:

STATE OF ILLINOIS,
Peoria county, ss.

By virtue of the within writ, to me directed, I have served it by reading the within to the said Stephen French and Ralph Hamlin, this 4th day of February, 1851.

C. KEMBLE, *Constable.*

Circuit court of the United States, for the circuit and district of Illinois.

John Reynolds, being duly sworn according to law, says, that he is one of the plaintiffs in the above entitled cause; that he is advised by counsel, and verily believes, that the testimony of Ralph Hamlin [and] Stephen French is material for said plaintiffs in the prosecution of said cause; that the said witnesses live in Peoria county, less than one hundred miles from Springfied, in the State of Illinois, where the court at which this deponent expects the said cause will be tried is appointed by law to be held. And this deponent further states, that he is informed and believes that Robert Forsyth, the above named defendant, resides in the county of St. Louis, in the State of Missouri, about two hundred miles distant from the place where the examination of said witnesses is expected to be taken; and that H. O. Merriman, solicitor for defendant, resides at Peoria, in the State of Illinois, being the same place where the examination of said witnesses is expected to be taken. And further saith not

JOHN REYNOLDS.

Subscribed and sworn to before me, this 24th day of January, A. D. 1851.

GEO. T. METCALF,
Commissioner of U. S. court.

Circuit court of the United States, for the circuit and district of Illinois.

Let Ralph Hamlin and Stephen French, the witnesses named in the foregoing affidavit, be examined before me at my office in Peoria, Peoria county, Illinois, on the 14th day of February, A. D. 1851, at nine o'clock in the forenoon, and let ten days' notice be given to H. O. Merriman, esq., solicitor for defendant of such examination.

GEO. T. METCALF,
Commissioner U. S. court.

January 24th, 1851.

The deposition of Stephen French, taken before me at my office in Peoria, on the 15th day of February, A. D. 1851, at 9 o'clock, a. m., pursuant to the foregoing notice hereto attached.

Examined by complainants' counsel.

Q. 1st. Are you acquainted with the parties to this suit?

Ans. I am not personally acquainted with either of them.

Q. 2d. How long have you resided in the county of Peoria?

Ans. I came to the town of Peoria in 1824 or 1823; I removed to the western part of Peoria county, my present residence.

Q. 3d. Were you acquainted with John L. Bogardus? And if yes, state whether he occupied and improved, and in what manner, the south-east fractional quarter 9, T. 8 N., R. 8 E., of the 4th meridian, and during what time, if at all, he occupied and improved it, or any part of it.

Ans. Yes; I was acquainted with John L. Bogardus; he occupied that fractional quarter section from 1830 to 1834, either by himself or

his tenants; he had a tavern and a store, and run a ferry, and had some enclosure on that quarter, but I don't know the size of the enclosure; Bogardus continued this occupation of said quarter as aforesaid till he sold out to Mr. Underhill.

Examined by defendant's counsel.

Q. 1st. At what time was the enclosure you have spoken of taken away?

Ans. I don't know. STEPHEN FRENCH.

The deposition of Ralph Hamlin, taken before me at my office in Peoria on the 15th day of February, 1851, pursuant to the foregoing notice.

Examined by complainants' counsel.

Qu. 1st. How old are you?

Ans. I am nearly thirty-four years old; I came to the town of Peoria about the 1st of June, 1833, and became acquainted with John L. Bogardus immediately after my arrival; the year I came here there was an enclosure on the southeast quarter of section 9, T. 8 N., 8 E., of the 4th meridian, containing from three to five acres; and a crop of corn was raised on it that year, and it was cultivated by George Dupree, who was keeping the ferry then; and the talk was at the time, that Dupree kept the ferry under or for Bogardus, and Bogardus was the reputed owner of the ferry; the improvements above spoken of were claimed by Bogardus, and by no other person that I heard of. When I came here in 1833, Bogardus lived on fractional section 10, 8 N., 8 E., of the 4th meridian. From the time I came here till Bogardus sold his interest in the fractional quarter section 9, 8 N., 8 E., to Underhill, Bogardus claimed to own the ferry and improvements aforesaid on said land, and Dupree kept the ferry for Bogardus, but Bogardus did not live on the ferry fraction himself. The enclosure within which the corn was raised as aforesaid was a very poor fence, and the crop was a very poor crop; the enclosure was wholly on the upper side of what is now Water street, and was near where the bridge now is.

RALPH HAMLIN.

STATE OF ILLINOIS,
City and county of Peoria.

I, George T. Metcalf, commissioner of the United States court, for the district of Illinois, residing in Peoria, hereby certify, that on the 15th day of February, A. D. 1851, at 9 o'clock, a. m., at my office in said city of Peoria, appeared before me Stephen French and Ralph Hamlin, who both being by me first sworn to state the truth, the whole truth, and nothing but the truth, in answer to such interrogatories as should be propounded to them in this suit of John Reynolds, Josiah E. McClure, and John McDougal, vs. Robert Forsyth, made the fore-

going answers to the foregoing questions, which questions and answers were by me reduced to writing in the order [in] which they were proposed and answered, and each of said witnesses signed his name to his deposition in my presence; and that *that* the counsel for the complainants, N. H. Purple, and the counsel for the defendant, H. O. Merriman, were present at the taking of said depositions, and took part in the examination.

Witness my hand, at Peoria, this 15th day of February, A. D. 1851.

GEO. T. METCALF,
United States commissioner.

This day, to wit, July 14th, A. D. 1851, on motion of defendant's solicitor, it is ordered by the court, that he have leave to open and file his deposition herein, which is as follows, to wit:

It is stipulated and agreed, by and between the said parties respectively, by their solicitors, that the deposition of Pierre Menard be taken on this 23d day of December, A. D. 1850, before George Edmunds, commissioner of said court, at the American hotel at the city of Springfield, in said State, waiving notice, &c.; subject, however, to any and all objections to said evidence on account of any legal objections to the relevancy or competency of the evidence.

N. H. PURPLE,
H. O. MERRIMAN.

Springfield, Dec. 23, 1850.

Deposition of Peire Menard, a witness produced, sworn, and examined before George Edmunds, jr., a commissioner of the circuit court of the United States, for the district of Illinois, and master in chancery for said district, under the foregoing stipulation, to be read in evidence in a certain cause now pending in the circuit court of the United States, for the district of Illinois, on the chancery side thereof, wherein John Reynolds, Josiah E. McClure, and John McDougal, are complainants, and Robert Forsyth is defendant, on the part of the defendant, in which the complainants join.

Peire Menard being duly sworn doth depose as follows: I am fifty-one years old; reside at Taswell county, Illinois. I know all the parties to this suit. I have known Robert Forsyth eight or nine years; have seen him before, but not much acquainted. I knew one John L. Bogardus; became acquainted with him at Peoria, Illinois, in July, A. D. 1827; I knew him from that time until his death, in about 1839; said Bogardus resided at said Peoria from my first acquaintance with him until about two years before his death. I was appointed Indian agent in the spring of 1827, and was sent to Peoria aforesaid, as such agent, in July, 1827; I took with me a mulatto boy. In the winter of 1827, in December, I went to Peoria again with one Jaques Mette, who was sent as interpreter, to induce an Indian chief named Machina to leave the State of Illinois and go west of the Mississippi river; Mette and I

stopped at the house of said J. L. Bogardus at Peoria; the house was then situated at the right of the bridge, as you go into Peoria, over the bridge, from this direction; the house was above the bridge, and about 60 or 70 feet from the brake of the bank of the river; as near as I recollect there was an old house directly on the bank of the river; that was also above the bridge. I know where Ferry street in Peoria is, the street that leads into the bridge; the house where J. L. Bogardus then lived was about 30 feet above, or up the river, from the street now leading to the bridge, called, I think, Hudson street, and which is sometimes call[ed] Ferry or Bridge street. I mean from the upper edge of the said street; I cannot state with certainty the number of feet. The house was on said Jaques Mette's lot; we staid there about two weeks—from ten days to two weeks. I learned it was Mette's lot from both Bogardus and Mette; I knew from Bogardus before that it was Mette's lot. On our trip up from St. Louis in December, 1827, Mette told me he expected money from said J. L. Bogardus for the use of his lot. When I saw Bogardus in July, 1827, at Peoria, he told me he had got the ferry at Peoria; that he went to St. Louis and got permission from Mette to stay on the lot.

Interrogatory. Did you hear any conversation between Mette and Bogardus at the time you were at Bogardus's house at Peoria in December, 1827, in relation to the conditions or terms on which said Bogardus was occupying said lot? If yea, state the conditions as fully as you can now remember.

Answer. They had several conversations; I acted as interpreter; Mette talked broken English; Bogardus tried to buy the lot of Mette, and offered him $150; Mette refused to take it. When Bogardus found he could not buy the lot of Mette, he leased it, and agreed to pay some amount for the rent to Mette, but I cannot recollect the amount; I cannot recollect how long Bogardus was to have the lot; don't think any time was set. It is my impression there was written lease of the lot, and that I was a witness to it, but cannot be positive. I went to live at Peoria about 1830 or 1831; up to that time I made my home at Kaskaskia and St. Louis. I began to regard Peoria my home in 1830, and lived there until 1837; after 1827 I had to be there four times a year, up to the time I went there to live. J. L. Bogardus let the house where he lived in 1827 in the spring of 1828, and went into another house, on another quarter section above, up the river, known now as Mills's addition to Peoria. Bogardus remained there about two or three years; he then went back on to the Mette lot, I think; upon reflection, I think Bogardus remained on the quarter section, now known as Mills's addition, three years about. During the time Bogardus was gone from the Mette lot he leased the ferry to John Dixon; Dixon occupied the house on the Mette lot formerly occupied, as aforesaid, by Bogardus; and during this time they built another house; this other house was built before Dixon went there. It was built adjoining the old house, of hewed logs, a little nearer the river, and lower down than the other; this was on the Mette lot. I can

not recollect the precise time the house was built. It was after I first went to Peoria and before Dixon took the ferry; both the old and new house were occupied as a tavern [or] public house. In 1827, when I firs went there, the improvements occupied by Bogardus was the house before mentioned, (a log cabin,) also a stable built of posts stuck in the ground and clap-boarded, standing in a southwest direction from the house, some 40 yards from the house, near the place where Miller now lives, between that and the brewery; there was an enclosure which included the stable, about one half an acre; the enclosure was divided, a part was used as a garden and a part as a stable yard; the enclosure was a part where the street leading to the bridge now is and a part below; a small portion of the upper part of it was in the street opposite the bridge; these last premises were in the possession of and occupied by said Bogardus. He did not rent the stable and enclosure of Mette as I understood it; they were not claimed by Mette; the enclosure and stable were on the lot adjoining the Mette lot, down the river; the enclosure and stable remained there some two or three years afterwards, and I think in the spring or summer of 1829 or 30, said Bogardus had some two or three acres enclosed in a northwest direction from the house he occupied in 1827; it lay north and west of the present Water street; the nearest corner of the field to the house aforesaid was some 30 or 40 yards in a northwest direction; the streets I refer to are those on Bigelow and Underhill's addition to Peoria; this was not a very good enclosure; it was made by stakes driven in the ground with caps and rails laid straight, about 5 or 6 rails high, about 4 feet high; it lasted only three or four years; they tried to raise corn and other vegetables; in 1829 or 1830 it was plowed and put in cultivation. I was present when Brown made the survey; I think his name was Joseph C. Brown, the old surveyor of St. Louis; the survey was made in 1836 or 1837; the house I have spoken of as occupied by said Bogardus on the Mette claim, when I first went to Peoria, was surveyed by Brown as being on the Mette claim or lot, that is, the house was included within the lines of the Mette lot; the field aforesaid of about three acres, was contained a part on the Mette lot, a part on the Forsyth back lot, and a part on the Fontaine back lot, and a part on La Belle's out lot, or Maillett's back lot. (Here a map of Brown's survey was shown to the witness.) Witness said it could only touch a small corner of La Belle's lot, and not Maillett's lot; I saw corn growing on the three-acre lot; I cannot say whether it was ever gathered or not; the fence would not turn stock, it was good for nothing. I think the field was abandoned in 1832; no crop was attempted to be raised there that year.

Cross examination by complainants' counsel.

The ferry that Bogardus kept at Peoria was landed at or near where the bridge now is on the Peoria side, and below on the other side. The ferry was propelled by poles and oars, and sometimes landed below, and sometimes above; but generally I think just above the bridge

on the Peoria side. The landing of the ferry was not on or in front of the Mette lot, but just below; as a general thing from the lower edge of the house where Bogardus lived in 1827 as aforesaid, to the upper edge of the street now leading to the bridge; I would suppose it was about 20 feet or a little over, I cannot be precise, I speak from a general idea of the place; at the time of Brown's survey there was a house on the Mette lot. The house in front of the old house that I have spoken of as the place where Bogardus lived in 1827, and also I think a part or all of the house where said Bogardus lived as aforesaid in 1827. The house, *the house* I spoke of in front, was on what was called French street, in front of the Mette lot, the other houses were on the Mette lot.

Interrogatory. *Was* you in Peoria in July 1832?

Answer. I was, I believe.

Int. 2. *Was* you residing there at the time?

Answer. I was.

Int. 3. Where did Bogardus live in July, 1832.

Answer. To the best of my knowledge he was living above at what they call Mills's addition to Peoria.

Int. 4. Was he cultivating the three-acre field you spoke of on your direct examination, or was that field in cultivation at that time, July, 1832.

Answer. To the best of my knowledge I think it was in cultivation, but I cannot say who cultivated it.

Int. 5. Did not Bogardus procure the field to be enclosed and cultivated?

Answer. He procured it to be enclosed; he hired a man to make the rails and fence; it was cultivated, but I don't know who worked it; whether Bogardus leased it, or hired some one to cultivate it for him.

Int. 6. Did you ever know of any person claiming the right to said field and enclosure prior to 1833, except said Bogardus?

Answer. I did not.

Int. 7 Was it not always called his enclosure up to the year 1833?

Answer. It was, so far as I knew about it.

Int. 8. Do you know Stephen French; where does he now live?

Answer. I do; he lives at Prince's Grove, Peoria county, Illinois.

Int. 9. Where did he live in 1832?

Answer. I cannot say exactly where he did live at that time.

Int. 10. Did you know Augustus Langworthy, Stephen Carroll, Isaac Waters, and William M. Wright in 1832, and where did each of them reside at that time?

Answer. I knew them all; they all lived in Peoria county at that time, all in the present town of Peoria, except Carroll, and he about ten miles above.

Int. 11. Where do they now live?

Answer. Two of them are dead; said Langworthy lives in Bureau county, Ill.; Carroll went to Oregon; Wright and Waters are dead. I understand Carrol went to Oregon.

Int. 12. What year did Bogardus procure the enclosure to be made around the three-acre field aforesaid.

Answer. I think it was in 1829.

Direct examination resumed.

Here the witness requested that the cross examinations be read to him, which was done.

The witness then said that he wished to explain in relation to his answer to interrrogatory No. 4, of the cross examination. The complainant objected to the explanation of the witness, except upon an interrogatory by defendant. The defendant refused to propound any question, but insisted that it was the right of the witness to proceed on his own motion; to which the complainant objected, and thereupon objected to the deposition proceeding further, except upon interrogatories to be propounded by the opposite party.

The witness then said, from the fact that the Black Hawk war occurred in 1832, it is my opinion, upon reflection, that the three-acre field aforesaid was not cultivated in 1832, to the best of my knowledge.

Interrogatory by def't's counsel. Did you or not have any conversation with John L. Bogardus in relation to Lewis Bigelow having obtained from said Bogardus any papers in relation to said Mette lot; if so, when did it occur, and what papers were mentioned?

Answer. I had, on several occasions with Bogardus, conversations in which he said Bigelow had got from him papers affecting the Ferry property at Peoria, and that they were doing him injustice about it. I cannot tell what papers they were, but were papers relating to his right to the ferry, and I supposed it meant the ferry and the land. I think something was said about a lease, but I cannot be positive; if any thing was said about a lease, it was a lease from Mette. Bogardus said Bigelow had all his papers showing his right there, as I understood it, both for the ferry and the land.

The counsel for the complainant here objects to all the evidence in this deposition as incompetent and irrelevant.

P. MENARD.

UNITED STATES OF AMERICA,
District of Illinois, ss.

I, George Edmunds, jr., an acting commissioner of the circuit court of the United States for said district, and master in chancery, do hereby certify the foregoing depositions of Pierre Menard, contained on the foregoing 8 and one-half pages of cap paper, was reduced to writing by me, in the presence of the counsel of the parties and of said witness, and after being by me read over to him, was signed by said witness, Pierre Menard, after his being by me first duly sworn; and he being by me again sworn, said the facts stated in said deposition by him subscribed are true.

In witness whereof I have hereunto set my hand as such master and commissioner, at Springfield, in said district, this 23d day of December, A. D. 1850, that said witness was by me duly sworn before the deposition was taken.

G. EDMUNDS, JR.,
Commissioner and master aforesaid.

This day, to wit, July 15th, 1851, was filed the following papers in said file contained, which are as follows, to wit:

SPRINGFIELD, ILLINOIS, 10*th August*, 1832.

DEAR SIR: The application of John L. Bogardus, herewith transmitted to you, has been presented to William L. May, the register of the land office at this place, and rejected by him as inadmissible, because the applicant does not reside upon the land which he wishes to purchase, and he now appeals to you for a revision and decision of his case.

This application is founded upon the last proviso of the act of Congress of April 5th, 1832, within the spirit as well as letter of which the case is supposed to be brought. We are aware, however, that it seems to be excluded by the instructions emanating from the General Land Office, but it is respectfully submitted that, when those instructions were prepared, the case now presented could not have been contemplated, and that the act ought to receive a construction which will embrace it. Hardly any case can be supposed where there is stronger reason for applying the provision granting rights of pre-emption than where an individual has made improvements on public land for the benefit and accommodation of the public, under a contract with the State growing out of the grant of a franchise.

The only objection to the application, as suggested by the instructions alluded to is, that the applicant does not live on the tract which he wishes to purchase. But, according to my understanding, the act of Congress does not require him to live upon it in order to entitle himself to the benefit of the provision for pre-emption. The act requires that he should be an actual settler and housekeeper on public land, and that the tract applied for shall include his improvements; all these requisitions are fulfilled in the present case.

The division of the public lands into small tracts was intended to facilitate sales and prevent controversy as to the extent of titles, when once acquired; but it could not have been the intention of the law, that the equitable rights of settlers, founded on their improvements, should be affected by those imaginary divisions when seeking to secure to themselves a legal title to those improvements. For instance; if a person should erect a house upon one section, whether by mistake or design, having his farm on another section, there is no good reason why he should not be permitted to purchase the tract which includes his farm, under the provisions of the act. If the house and farm were both within the same section, there can be no doubt that he might

buy that half quarter which included either his house or his farm; so if he should build a dwelling house on one lot and a mill on another, the same reasoning would apply, and would be rendered the more forcible if the lot upon which the mill or other improvement is situated (as in the present case) is unfit for cultivation, or a permanent dwelling place, by reason of its liability to be overflowed; can it then make any difference that the applicant's house is [on] one section and his other improvements on another adjoining it; there is none expressly made by the act, and there is none in reason.

The principal and most important object of the act was to enable actual settlers to secure to themselves the benefit of their improvements. In order to do so, the law requires that they should be housekeepers; but that condition seems not to be otherwise important, than as furnishing evidence of their being actual settlers. In this view of the subject, it surely cannot be material that the house and other improvements, whether consisting of a farm, mills, ferry-landing, or wharf, should both be situated on the same half-quarter section.

A different construction from that now contended for, it is most obvious, would operate to exclude a meritorious claim, and encourage devices for evading the true spirit of the law. It would render unavailing, in many cases, a compliance with the substantial requisitions of the statute, while it would give efficacy to a mere colorable performance of its conditions. All legislative enactments ought to receive a reasonable construction, and such as will attain the object and fulfil the intent, when they are apparent. When a benefit is intended to be conferred or a privilege granted, it is not to be presumed that it was also intended, unless such intention be clearly expressed, to impose useless and unreasonable conditions.

As the case is of considerable importance, I have thought proper to submit to you these my views on the subject; I also transmit to you the evidence in support of the application. If you will take the subject into consideration, and communicate to me your decision as soon as it may suit your convenience, I shall feel particularly obliged. Please to address me at Peoria, Illinois.

Very respectfully, &c.,

LEWIS BIGELOW.

Hon. ELIJAH HAYWARD.

P. S. The register at this place refuses to allow claims for pre-emption unless the applicant *were* an actual settler and housekeeper at the passage of the law, as at the time of making the application. Is such the true construction of the law?

L. B.

John L. Bogardus, of Peoria, in the State of Illinois, represents, that he is an actual settler and housekeeper on a tract of public land, viz., the southeast fractional quarter, (containing about twelve acres,) of section nine, in township eight north, range eight east, of the fourth

principal meridian in said Illinois; that within eight years past he has erected sundry buildings on said lot, enclosed and cultivated a part of the same, and established a ferry over the Illinois river adjoining said lot, pursuant to license duly obtained, and that he has ever since occupied and improved said lot and buildings by himself and tenants, and kept up and maintained said ferry. And the said Bogardus further represents, that he has incurred considerable expense in making improvements on the opposite side of the said river, by preparing a landing and opening a road for the accommodation of such persons as might resort to the said ferry for the purpose of crossing the river, which improvements are made and situated on the northwest fractional quarter, (containing less than forty acres,) of section twenty-nine, in township twenty-six north, range four west, of the third principal meridian, and that the said ferry and improvements are of great public convenience and necessity; wherefore the said Bogardus hereby applies to enter for pre-emption the last mentioned tract of land or fractional quarter section, under the provisions of the act of Congress, approved the 5th of April, 1832, entitled, "an act supplementary to the several laws for the sale of public lands," which will include his improvements. JOHN L. BOGARDUS.

STATE OF ILLINOIS,
County of Peoria, ss., July 24th, 1832.

Then John L. Bogardus, above named, who is personally known to me, appeared and made oath to the truth of the foregoing statement by him subscribed. Before me, ISAAC WATERS,
Clerk pro tem., cir. court.

I, Stephen Carel, of the county of Peoria, in the State of Illinois, testify and say, that I came to the Illinois river about eleven years ago, and have lived at and near Peoria on said river ever since, except about two years that I resided at Galena; when I first came to this country John L. Bogardus, of said Peoria, lived with his family on the west bank of the Illinois river, near where his ferry now is; about three years afterwards he established the ferry which is situated at the outlet of Lake Peoria, and from time to time he erected sundry houses and buildings on the west side of the river, upon the lot upon which the ferry landing is established, and also enclosed and cultivated a part of the lot. I further testify and say, that the said Bogardus also opened a road and prepared a landing for his ferry by cutting down and removing trees for nearly a mile on the opposite side of the river; that the said Bogardus has ever since kept up and maintained said ferry, and occupied and improved said lot and buildings, by himself and tenants, and that said ferry and road are of great public convenience and necessity. I further say, that I have no interest in the subject matter of this affidavit.

his
STEPHEN ⋈ CAREL.
mark.

STATE OF ILLINOIS,
Peoria county, ss., July 27th, 1832.

Appeared and made oath, Stephen Carel, who is personally known to me, that the foregoing affidavit by him subscribed is true. Before me,

ISAAC WATERS,
Clerk pro tem., cir. court, said co.

I, Jonathan Beatty, testify and say, that in September, 1830, I crossed the Illinois river in the ferry established by John L. Bogardus at the outlet of Lake Peoria; at that time Mr. Bogardus lived with his family in a house on the west bank of the river, near the ferry landing, which house, with several others near it, is situated, as I understand, on the fractional quarter of section nine, in township eight north, range eight east. I further testify, that a part of the land is enclosed and under cultivation, and that ever since my first crossing the river as before stated, I have had frequent occasions to make use of said ferry, and that the same has been kept up and maintained by Mr. Bogardus, and the land and buildings occupied and improved by himself and tenants. I further testify, that when I first crossed the river as above stated, there was a log cabin on the east bank of the river at the ferry landing, which I understood was erected by Mr. Bogardus for the convenience and accommodation of passengers. I further say, that I have no interest in the subject matter of this affidavit.

J. BEATTY.

STATE OF ILLINOIS,
County of Peoria, July 24th, 1832.

Personally appeared the above named Jonathan Beatty, who is personally known to me, and made oath that the foregoing affidavit by him subscribed is true. Before me,

ISAAC WATERS,
Clerk pro tem., circuit court.

PEORIA, ILLINOIS, 13*th August*, 1832.

DEAR SIR: Two or three days ago I addressed you in behalf of Mr. Bogardus on the subject of a claim for pre-emption under the act of Congress of April 5th, 1832. I now wish to present for your consideration one additional remark in reference to the construction of the act.

The act says, "that all actual settlers, being housekeepers, upon the public lands shall have the right, &c." Now it is obvious enough that a person may be an actual settler without being a housekeeper, and it is manifest that Congress so considered the subject from their using terms expressive of both conditions, and requiring that both should concur in the same individual in order to entitle him to the benefit of the law. If a person makes improvements upon a tract of public land, with an intention of continuing to occupy and improve it, he is a set-

tler upon it within the meaning of the law, although his dwelling house be upon another lot, or although he do not keep house at all. The law merely requires that a settler upon public land, in order to be entitled to a pre-emption, should be a housekeeper; but the phraseology of the act no more implies that his dwelling house shall be upon the same tract, than it would if the term married men or farmers were substituted for housekeepers. The meaning of the law would, perhaps, be more plainly expressed if there were a slight variation in the collocation of the words. If it had said, all actual settlers upon the public lands being housekeepers, &c., a different construction from that now contended for would hardly have occurred to any person. A settler, to be entitled to the benefit of the law, must be of a certain class or description of persons, a character however having no necessary connexion with the land upon which the improvement is made. This seems to me to be the most natural, as well as the most reasonable, exposition of the act.

Very respectfully, &c.,

LEWIS BIGELOW.

Hon. ELISHA HAYWARD,
Commissioner General Land Office.

GENERAL LAND OFFICE,
3d October, 1832.

SIR: In reply to your letters of the 10th and 13th of August last, I have the honor to state, that [the] terms of the act of the 5th April last are specific in requiring the person claiming a pre-emption to be an actual housekeeper on the land applied for. Mr. Bogardus states in his affidavit that he was, on the 5th of April last, an actual settler and housekeeper on the SE. fr'l ¼ of 9, 8 N., 8 E.; to this lot his pre-emption is good, but the lot on the opposite side of the river, also claimed by him, is not considered as adjoining his lot, and cannot therefore come within the law. If Messrs. May and Taylor, register and receiver, are satisfied of the truth of the affidavit of Mr. Bogardus, his pre-emption to the first named lot, viz., SE. fr'l ¼ 9, 8 N., 8 E., will be granted.

I am, &c.,

E. HAYWARD.

LEWIS BIGELOW, ESQ.,
Peoria, Illinois.

WASHINGTON, *2nd September*, 1837.

SIR: John L. Bogardus filed in the Quincy land office satisfactory evidence of his right to the southeast fractional quarter of section nine, township eight north, range 8 east, of the 4th p. m., under the act of 5th April, 1832. Mr. Bogardus's right appears to have been recognised also by the General Land Office, as you will perceive by referring to the letter from the General Land Office to Lewis Bigelow, of 3rd October, 1832.

The object of this communication is to request that you will advise the said officers of the area of the above tract, and direct them to issue to Mr. Bogardus a patent certificate therefor, with a reservation of the rights of other persons. For the furnishing the quantity or area to the land officers by the General Land Office, and their issuing a certificate thereon, there are many precedents in the Vandalia and Springfield districts, (see reports of those officers under circular of 7th February, 1831, and the correspondence relative thereto; and for issuing a certificate and patent with such a reservation as is mentioned above, see the patent issued to the commissioners for the county of Peoria, under act of 2nd March, 1833, L. L., vol. 2, page 362.) We further request that we may be furnished with a copy of your communication to the land officers relative to this claim.

We are, very respectfully,
Your obedient servants,
KING & WILSON,
Agents for Bogardus.

To Hon. JAMES WHITCOMB,
Commissioner General Land Office.

LAND OFFICE, QUINCY, ILLINOIS,
November 17th, 1832.

SIR: Yours of the 31st ultimo was duly received, and in reply thereto I have to say, that your proof of a pre-emption has been duly received previous to the 5th October, partly by Mr. Bigelow, and partly by mail, which were adjudged in this office to be sufficient.

Very respectfully, your humble and obedient servant,
SAM'L ALEXANDER.

JOHN L. BOGARDUS, ESQ.

LAND OFFICE, QUINCY, *January 4th*, 1833.

I hereby certify, that on the fourth day of August, 1832, John L. Bogardus, of Peoria, in the State of Illinois, filed in this office evidence of his right of pre-emption to the southeast fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, under the act of Congress of April 5, 1832.

SAM'L ALEXANDER,
Register.

GENERAL LAND OFFICE, *September 4th*, 1837.

GENTLEMEN: It appears from documents filed in this office that, on the fourth day of August, 1832, John L. Bogardus, of Peoria, in the State of Illinois, filed in the land office at Quincy evidence of his right to the SE. fr'l ¼ section 9, of 8 N., R. 8 E., of the 4th p. m., under the act of 5th April, 1832, which right was adjudged by the land officers of said district to be established; and it also appearing from a letter

written by this office to Lewis Bigelow, dated 3rd October, 1832, that the same opinion was held here with regard to said claim; it also further appearing that, for the want of plat and other causes, no certificate has been issued to said claimant:

You are therefore hereby authorized to permit said John L. Bogardus to make the entry of said SE. fr'l qr. upon your receiving from the surveyor general a subdivisional plat of fractional section 9, showing the separate contents of said SE. fr'l qr., to whom you will apply for that purpose. In consequence of the act of Congress of 3rd March, 1823, entitled "an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois, you will, in the body of the certificate, immediately after the last word described, insert the following, "subject however to the rights of any and all persons claiming under the act of Congress [of] 3rd March, 1823, entitled an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois. You will also endorse on such certificate the reasons for issuing the same, referring to the date of this communication.

Respectfully, your obedient servant,

JAS. WHITCOMB,
Commissioner.

To Register and Receiver,
Quincy, Illinois.

General Land Office, *September 7th*, 1837.

Gentlemen: By reference to my letter of the 4th instant, it will be perceived that instructions were given you to permit John L. Bogardus to enter under certain restrictions the S. E. fractional quarter 9, 8 N., 8 E. Those instructions were based on a certificate of the former register with regard to the adjudication of his claim, and a communication from this office to Lewis Bigelow, of 3d October, 1832, recognising said claim as then reported by register and receiver to the SE. fractional quarter aforesaid, without reference to certain papers which have been filed in this office, going to show that Abigail Waters also claims said fractional quarter section, and which were not before me when those instructions were given. You will, therefore, in your action on the matter, have a due regard to the existence of the said claim of Waters, barely remarking on my part that if said claim of Waters is based on the act of 19th June, 1834, that of John L. Bogardus must take precedence, and my instructions in regard to it carried into effect.

Respectfully, your ob't serv't,

JAS. WHITCOMB, *Comm'r.*

To Register & Receiver,
Quincy, Illinois.

Land office, Quincy, Illinois,
11*th December*, 1837.

Sir: In pursuance of instructions contained in your letter of the 4th and 7th September last, John L. Bogardus has been permitted to enter

under certain restrictions the SE. fractional quarter of section 9, 8 N., 8 E., certificate No. 13,258, under the Pre-emption act of 1832, and under the same instructions and with the same restrictions, Charles Ballance has been permitted to enter the SW. fractional quarter of section 9, 8 N., 8 E., certificate No. 13,293 under the Pre-emption act of 1834. I inserted in both applications the same clause as in the certificates of purchase in relation to the rights of persons claiming under the act of Congress, approved the 3d March, 1823. The pre-emption proof of Bogardus & Ballance, together with that of William Powell for NW. ¼ section 6, 5 N., 4 E., certificate No. 13,284, which was entered under instructions in your letter of 7th Sept., 1837, are herewith enclosed, having been omitted to be sent with my last return. Very respectfully, your ob't serv't,

SAML. LEECH, *Register.*

Hon. JAMES WHITCOMB,
Commissioner General Land Office.

I do solemnly swear that I am an actual settler and housekeeper on a tract of public land, viz., the southeast quarter of section nine, in township eight north, range eight east, of the fourth principal meridian, in the State of Illinois, which said tract or quarter section contains about twelve acres, and I hereby apply to enter the same for pre-emption under the provisions of the act of Congress, approved the 5th of April, 1832, entitled an act supplementary to the several laws for the sale of public lands, which will include my improvements.

JNO. L. BOGARDUS.

STATE OF ILLINOIS,
Peoria county, ss.

July 24th, 1832.

Sworn before me. ISAAC WATERS,
Clerk pro tem., circuit court.

I, William Wright, testify and say, that seven years ago last autumn I came to this country, and crossed the Illinois river in the ferry established by John L. Bogardus at the *at the* outlet of Lake Peoria; at that time there was a house on the west bank of the river near the ferry landing, in which Stephen French then lived as tenant of Mr. Bogardus, and tended said ferry. Since that time Mr. Bogardus has erected sundry other buildings on the same lot or tract of land, and enclosed and cultivated a part of the same.

I further testify, that said lot is understood to be public land, and a fractional quarter of section nine, in township eight north, range eight east, of the fourth principal meridian; and that ever since my first acquaintance with the said Bogardus he has occupied and improved said land and buildings by himself or his tenants, and kept up and maintained said ferry.

I further testify, that about two years ago a log cabin, two stories high, was erected by Mr. Bogardus, as I understood, on the east bank

of the river at the ferry landing, for the convenience and accommodation of travellers and passengers.

I further say, that I have no interest in the subject-matter of this affidavit. WM. WRIGHT.

STATE OF ILLINOIS, *county of Peoria.*

July 24, 1832.

Then William Wright, above named, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by him subscribed, before me, ISAAC WATERS,

Clerk pro tem., circuit court.

I, Stephen Carel, of the county of Peoria, in the State of Illinois, testify and say, that I came to the Illinois river about eleven years ago, and have lived at and near Peoria on said river ever since, except about two years that I resided at Galena; when I first came to this country, John L. Bogardus, of said Peoria, lived with his family on the west bank of the Illinois river, near where his ferry now is; about three years afterwards he established a ferry which is situated at the outlet of Lake Peoria, and from time to time erected sundry houses and buildings on the west side of the river, upon the lot upon which the ferry landing is established; and also enclosed and cultivated a part of the lot. I further testify and say, that the said Bogardus has ever since kept up and maintained said ferry, and occupied and improved said lot and buildings by himself and tenants. I further say, that I have no interest in the subject matter of this affidavit.

his
STEPHEN ⋈ CAREL.
mark.

STATE OF ILLINOIS,
County of Peoria.

July 27, 1832.

Then Stephen Carel, above named, who is personally known to me, appeared and made oath to the foregoing affidavit by him subscribed is true; before me, ISAAC WATERS,

Clerk pro tem., circuit court, said county.

I, Isaac Waters, of Peoria, in the State of Illinois, testify and say, that I removed to the county of Peoria seven or eight years ago, and have known John L. Bogardus, of said Peoria ever since; when I first removed here the said Bogardus had established a ferry over the Illinois river, at the outlet of Lake Peoria, and has since erected sundry buildings on the west side of the river, on the lot of land on which the ferry landing is located. He has also enclosed and cultivated a part of the lot, and has hitherto kept up and maintained said ferry, and occupied and improved said lot and building by himself and tenants. I further testify, that in my opinion the said ferry is of great public utility and necessity. I further say, that I have no interest in the subject-matter of this affidavit. ISAAC WATERS.

STATE OF ILLINOIS, *Peoria county, ss.*

July 30th, 1832. Then the above named Isaac Waters, who is personally known to me, appeared and made oath to the truth of the foregoing affidavit by him subscribed. Before me,

A. WREN, *J. P.*

I, Augustus Langworthy, of Peoria, in the State of Illinois, testify and say, that I am well acquainted with the situation of the several lots of land bordering on the Illinois river, in township eight north, range eight east, of the fourth principal meridian; and that the lot upon which John L. Bogardus has made various improvements, by the erection of buildings, enclosing and cultivating a part of the lot, and by the establishment of a ferry adjoining it over the Illinois river, is the southeast fractional quarter of section nine in said township. I further testify, that I have been a resident in said township for six or seven years past, and that during that period the said Bogardus has occupied and improved said lot. I further say, that I am no way interested in the same.

AUGUSTUS LANGWORTHY.

STATE OF ILLINOIS, *Peoria county.*

August 15th, 1832. Augustus Langworthy above named, who is personally known to me, made oath to the truth of the foregoing affidavit by him subscribed. Before me,

ISAAC WATERS,
Clerk pro tem. cir. court, said county.

No. 13,258. LAND OFFICE, *at Quincy, Ill.*, 15 *Nov.*, 1837.

It is hereby certified, that in pursuance of law John L. Bogardus, New York county, State of New York, on this day purchased of the register of this office the lot on southeast fractional quarter of section nine, in township No. 8 north, of range No. 8 east, containing twenty-three $\frac{93}{100}$ acres, at the rate of one dollar and 25 cents per acre, amounting to twenty-nine dollars and $91\frac{1}{2}$ cents, for which the said John L. Bogardus has made payment in full as required by law. Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said John L. Bogardus shall be entitled to receive a patent for the lot above described, subject, however, to the rights of any and all persons claiming under the act of Congress of 3d March, 1823, entitled an act to confirm certain claims to lots in the village of Peoria, in the State of Illinois.

SAM'L LEECH, *Register.*

On the back of the foregoing certificate No. 13,258, is the following endorsement, viz:

13,258. Quincy, Ill.

Issued by order of the Comm'r of the Gen'l Land Office. Dated 4th Sept., 1837.

SAM'L LEECH, *Register.*

GENERAL LAND OFFICE,
March 4th, 1851.

I, Justin Butterfield, commissioner of the General Land Office, do hereby certify, that the foregoing from page one to eighteen inclusive, is truly copied from the files and records of said office.

In testimony whereof I have hereunto set my name, and caused the [SEAL.] seal of said office to be affixed, the day and date last above written.

J. BUTTERFIELD,
Commissioner.

This day, to wit, July 15th, A. D. 1851, the following order was made of record, to wit:

By agreement of parties it is ordered, that this cause be continued at the costs of the defendant; it is further ordered, that the time for taking depositions be extended to the first of November next, and that the party taking the same give time and notice to the opposite party.

This day, to wit, December 26th, A. D. 1851, the following order was made of record, to wit:

This day came the parties by their solicitors, and the trial of this cause having continued until the hour of adjournment, it is ordered that the further trial be continued until 9 of the clock to-morrow morning.

This day, to wit, December 27th, 1851, the following order was made of record, to wit:

This day came again the parties by their solicitors, and continued the argument in the above cause, and the court not being sufficiently advised in the premises took time to consider.

This day, to wit, January 26th, A. D. 1852, the following judgment and decree of said court was made of record, to wit:

This cause having been submitted to the court, upon the bill and amended bill, of the complainants, the answer and amended answer of the defendant, replication, depositions, and exhibits, and argument of counsel, and the court now here having duly considered the same, and being fully advised in the premises, doth order, adjudge, and decree, that the said defendant, Robert Forsyth, and all persons claiming under him, be, and they are hereby, perpetually enjoined and restrained from prosecuting the said action of ejectment referred to in complainants' bill against the said James Kelsey and Joshua Hotchkiss; and that the said Robert Forsyth, and all persons claiming under him, through or under the said patent to the legal representatives of Thomas Forsyth, in complainants' bill described, be in like manner perpetually enjoined and restrained from prosecuting any action of ejectment, against the said complainants, or either of them, for the recovery of the said lots of land claimed by said complainants in their said bill, under any claim of title derived from, through, or under the said patent to the legal representatives of Thomas Forsyth, in said complainants' bill set forth.

And also that the said defendant, Robert Forsyth, and all persons

claiming under him, be and they are hereby perpetually enjoined and restrained from setting up his said title to the land and lots in controversy in this suit, (and claimed by the complainants,) as against the claim or title of the said complainants, and all persons claiming under them, through their several titles or either of them, as stated and set forth in said complainants' bill.

It is further ordered, adjudged, and decreed, that the said defendant pay all the costs of this proceeding, and that execution issue therefor, &c.

This day, to wit, January 27th, A. D. 1852, the following order for appeal was made of record, to wit:

This day came the defendant by his solicitors, and prayed an appeal herein, which was granted by the court upon his filing a bond here in the sum of five hundred dollars within ten days from this date, and tendered as securities Robert Forsyth and L. D. Cabbinne, his bond, which was approved by the court.

This day, to wit, January 28th, A. D. 1852, the defendant by his solicitors comes, and on motion leave is granted him by the court to file his appeal bond herein, which is as follows, to wit:

Know all men by these presents, that we, Robert Forsyth, as principal, and Lucien D. Cabanne, as security, are held and firmly bound unto the above named John Reynolds, Josiah E. McClure, and John McDougal, in the sum of five hundred dollars, to be paid to the said John Reynolds, Josiah E. McClure, and John McDougal, their executors and administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Signed, sealed with our seals, and dated this 26th day of January, A. D. 1852.

Whereas the said Robert Forsyth has this day taken an appeal from the decree made in the above entitled cause, by the circuit court aforesaid, at the December term, 1851, to the Supreme Court of the United States of America:

Now, therefore, the condition of this obligation is such, that if the above named Robert Forsyth shall prosecute his said appeal with effect, and abide whatever judgment the said Supreme Court may render in the premises, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

ROBERT FORSYTH, [SEAL.]
L. D. CABANNE. [SEAL.]

I, William Pope, clerk of the circuit court of the United States, for the district of Illinois, do hereby certify the foregoing transcript to be a full, true, and correct copy of all the proceedings in the case of John Reynolds, Josiah McClure, and John McDougall, against Robert Forsyth, as the same appears from the records and files of my said office.

In testimony whereof I have hereunto affixed the seal of said court, at Springfield, in the district aforesaid, and subscribed my [SEAL.] name, this twenty-second day of November, in the year of our Lord one thousand eight hundred and fifty-two, and of independence the 77th. WM. POPE, *Clerk*.

Supreme Court of the United States, December term, 1852.

ROBERT FORSYTH, appellant,
vs.
John Reynolds, Josiah E. McClure, and John McDougall, appellees.

And now comes the said appellant by his solicitors, and says, that in the said record and decree of the circuit court of the United States, for the district of Illinois, there is manifest error in this, to wit:

In that said decree was in favor of the complainants in said circuit court perpetually enjoining the said defendant in said court from prosecuting his said action of ejectment, whereas said decree should have been in favor of said defendant, and against said complainants, and should have been a decree dismissing their said bill with costs.

ABRAHAM LINCOLN,
Counsel for appellant.